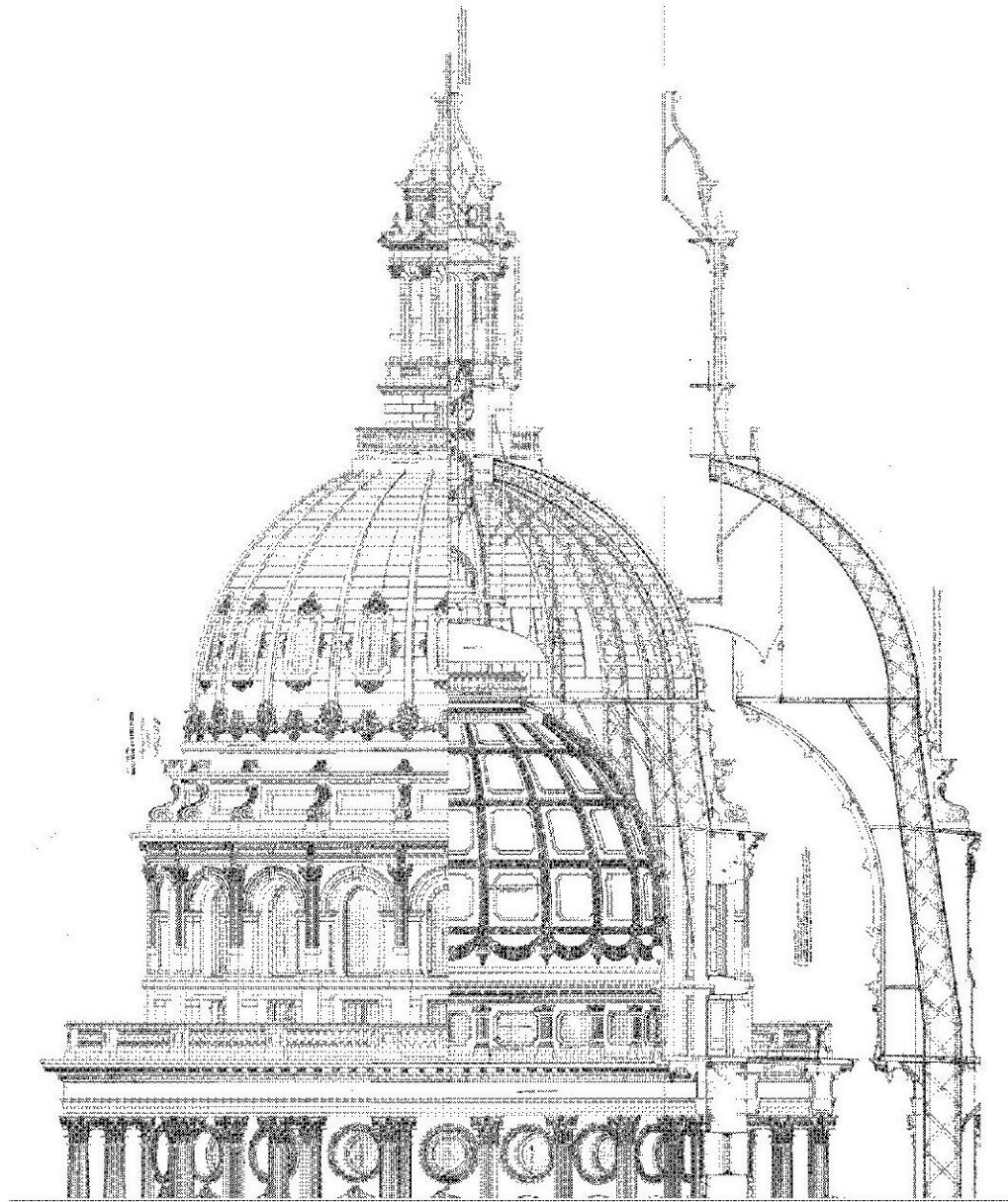


INTERIM REPORT TO THE 81ST TEXAS LEGISLATURE



HOUSE COMMITTEE ON
CORRECTIONS

JANUARY 2009

HOUSE COMMITTEE ON CORRECTIONS

**TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2008**

A REPORT TO THE

**HOUSE OF REPRESENTATIVES
81ST TEXAS LEGISLATURE**

JERRY MADDEN

CHAIRMAN

COMMITTEE CLERK

MERITA ZOGA



House Committee On Corrections

January 12, 2009

Jerry Madden
Chairman

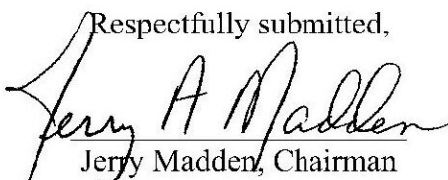
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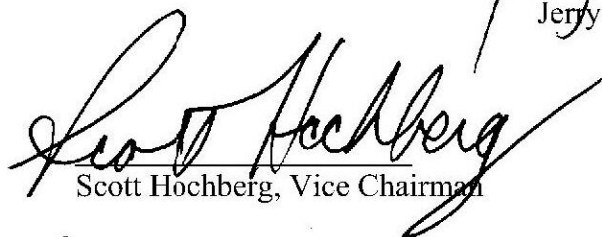
The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

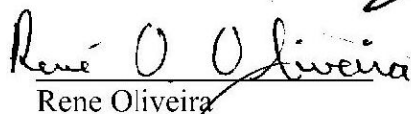
Dear Mr. Speaker and Fellow Members:

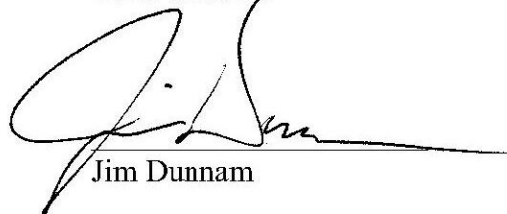
The Committee on Corrections of the Eightieth Legislature hereby submits its interim report including recommendations for consideration by the Eighty-First Legislature.

Respectfully submitted,

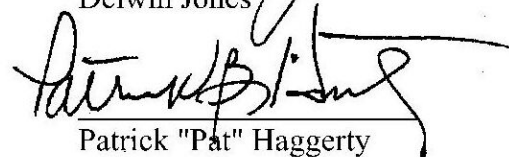

Jerry Madden, Chairman


Scott Hochberg, Vice Chairman


Rene Oliveira


Jim Dunnam


Delwin Jones


Patrick "Pat" Haggerty


Jim McReynolds

Jerry Madden
Chairman

Scott Hochberg
Vice-Chairman

Members: Delwin Jones, Rene Oliveira, Patrick "Pat" Haggerty, Jim Dunnam, Jim McReynolds

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INTRODUCTION

At the beginning of the 80th Legislature, the Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Corrections. The committee membership included the following: Jerry Madden, Chair; Scott Hochberg, Vice-Chair; Delwin Jones; Rene Oliveira; Pat Haggerty; Jim Dunnam; and Jim McReynolds.

During the interim, the Corrections Committee was assigned nine charges by the speaker:

1. Explore the use of technology practices that improve efficiency, safety, and coordination of criminal justice activities on the state, local, and county levels.
2. Consider new strategies for meeting prisoner reentry challenges in Texas, including the evaluation of programs with documented success. This review should include the availability of housing and occupational barriers.
3. Provide a comprehensive analysis and study of the Texas state jail system, including original intent for use, sentencing guidelines, and effectiveness. Develop suggestions for changes and improvements in the state jail system.
4. Study the organizational structure of the Texas Youth Commission and the Texas Juvenile Probation Commission to determine if the current system is effectively and efficiently addressing the needs of the juvenile justice system in conjunction with the sunset review of these agencies. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)
5. Study Disciplinary Alternative Education Programs and Juvenile Justice Alternative Education Programs, including referral rates, age of students, whether parents have sufficient recourse to challenge a placement, funding, and course requirements. (Joint Interim Charge with the House Committee on Juvenile Justice and Family Issues)
6. Review and research the availability, coordination, efficiency, and allocation of substance abuse treatment resources for probationers, pretrial defendants, people in the custody of the Texas Department of Criminal Justice (TDCJ), and parolees. This review should include methods to reduce and improve current assessments, training, and referring protocols and the identification of any barriers that may be impeding all of the above. (Joint Interim Charge with the House Committee on Appropriations)
7. Study policies and procedures related to illegal immigration and border security of the TDCJ, county probation departments, and local and county jail facilities, and make recommendations to improve coordination with international, federal, state, and local authorities. (Joint Interim Charge with the House Committee on County Affairs)
8. Assess the relationship between mental illness and criminal behavior and offer

reforms needed to address the proliferation of mental illness in the adult and juvenile criminal justice systems. This review should include an examination of data sharing between criminal justice and health and human services agencies, proper screening, assessments, treatment, discharge planning, post-release supervision, and community services. (Joint Interim Charge with the House Committee on Appropriations)

9. Monitor the agencies and programs under the committee's jurisdiction.

Charges 1, 2, 3, 7 and 9 were studied by the full Corrections Committee. In order to undertake all of the charges efficiently and effectively Chairman Madden also appointed two subcommittees; the Subcommittee on Juvenile Justice and Education and the Subcommittee on Substance Abuse and Mental Illness.

The Committee wishes to express appreciation to the staff of the committee members; to the agencies that assisted the committee and supplied valuable information for the preparation of the report, in particular the Texas Department of Criminal Justice, TDCJ-Criminal Justice Assistance Division, State Auditor's Office, Texas Correctional Office on Offenders with Medical and Mental Impairments, Texas Juvenile Probation Commission, Texas Youth Commission, Council on Sex Offender Treatment, and the citizens who testified at the hearings for their time and efforts.

CHARGE 1: EXPLORE THE USE OF TECHNOLOGY PRACTICES THAT IMPROVE EFFICIENCY, SAFETY, AND COORDINATION OF CRIMINAL JUSTICE ACTIVITIES ON THE STATE, LOCAL, AND COUNTY LEVELS.

In response to this charge, the House Committee on Corrections held a public hearing on August 21, 2008. The Committee heard both invited and public testimony.

BACKGROUND

Criminal justice agencies need to keep abreast of the advances in technology to critically and objectively analyze and evaluate tools that would assist them in their mission. Better utilization of technology can help control costs and maximize productivity.

FINDINGS

Inmate Phone System

In 2007, the Legislature approved the inmate phone system that will allow inmates to make phone calls using a monitored telephone. Texas was the last state to approve the phone system. The Legislative Budget Board projects the phones will raise \$25-30 million for the Crime Victims' Compensation Fund. Pursuant legislation, the first \$10 million in a given year is set aside for the Victims' Compensation Fund, every dollar beyond that initial \$10 million will be split 50/50 between the fund and the general revenue of the contractor. TDCJ will approve a list of callers for each inmate to ensure security. Calls will be monitored with a secure biometric voice print system, with the exception of attorney calls which will be kept confidential. The Office of Inspector General will monitor and review calls.

Juvenile Case Management System

The Texas juvenile justice system currently has 166 independent computer systems, operating independently of one another. Little, if any information is shared amongst counties regarding the juvenile offenders or the programs and services they have been provided. The Texas Juvenile Case Management System (JCMS) will provide statewide data sharing between local juvenile probation departments and other key juvenile justice agencies through a web based system. The project is a partnership between the Conference of Urban Counties (CUC), three funding counties (Bexar, Dallas, and Tarrant) and the Texas Juvenile Probation Commission (TJPC). The JCMS is a comprehensive juvenile justice information and case management system that will provide for the common data collection, reporting and management needs of Texas juvenile probation departments as well as flexibility to accommodate individualized requirements.

TJPC is in the process of developing a statewide risk assessment instrument to be used for juveniles at intake. The purpose of the instrument is to identify a juvenile's risk of re-offense based on criminal history and the juvenile's needs as well as ensure appropriate risk classification.

The JCMS project was tentatively outlined at the hearing in August within the following phases:¹

	PHASE	ANTICIPATED COMPLETION
I.	Review of existing assessment instruments and risk assessment literature. Development of project methodology. Selection of study population and initial matching and analysis to determine subsequent re-offense for juveniles in the population. Development of sampling methodology and site selection. Development of data collection instrument based on identified juvenile risk and protective factors.	(not provided)
II.	Data collection and analysis	Spring/Summer 2008
III.	Development of assessment instrument	Spring/Summer 2008
IV.	Validation/testing of risk assessment instrument	Summer/Fall 2008
V.	Implementation of instrument statewide to juvenile probation departments	January 2009
VI.	Development of future instruments	detention 2010, re-entry 2011

Offender Information Management System

One major reoccurring challenge facing the criminal justice system is information technology. In 1996, TDCJ began the Offender Information Management System (OIMS) project. The intent of the OIMS project was to provide timely, consistent, accurate, and easily accessible offender information to internal and external stakeholders instantly. The project was divided into three distinct phases:

Phase I- development of the plan to reengineer the offender information management processes

Phase II- build business case with costs and benefits and the design of an offender information system to serve the agency

Phase III- develop and implement OIMS and the infrastructure to support it.

Below is a timeline of the OIMS project activities compiled by the House Committee on Corrections from various documents, including internal audits.²

PHASE I:	1995-1997
1995	Legislature appropriates \$1.2 million to enable initiation of Phase I activities.
1996	December- Phase I began with the selection of IBM as vendor to provide criminal justice knowledge. DIR was contracted for Project Management services.
1997	April- Phase I completed with submission of the Phase I Final Report that defined a 'blueprint' for Phases II and III.

1997	Legislature appropriated \$22.9 million to enable initiation of Phase II activities.
1997	April through December- TDCJ and State oversight agency conclude Phase II scope "too ambitious." Divided Phase II into Phase II[a] and II[b]. TDCJ developed Request for Offer to select company to provide expertise and manpower to carry out [a] and [b].
PHASE II:	1998-1999
1998	February- TDCJ selected Deloitte Consulting to provide project management and business process reengineering.
1998	TDCJ expended \$10.2 million of the \$22.9 appropriate for Phase II[a] activities.
1998	March- Phase II[a] began. Mapped offender information management business processes, indentified stakeholders, explored how processes could be enhanced through reengineering, developed redesigned offender information management business process, and developed performance targets for redesigned processes.
1998	May-Phase II[b] began. Continuation of business process reengineering activities, development of prototypes, completed assessment of potential costs and benefits, decision made to implement parole-related processes first.
1998	August- Phase II[a] formally completed with submission of Final Report. Total expenditures for phase- \$2.5 million.
1999	October- Sapient chosen as vendor to implement parole-related processes and technology infrastructure improvements.
1999	Total of \$7.7 million expended for Phase II[b] activities.
PHASE III:	1999-2008
1999	Legislature appropriated \$13.3 million for 2000/2001 biennium, approved transfer of unexpended balance from 1998/1999 biennium, total of \$26 million.
1999	Phase III divided into three distinct Periods: Period 1- implement parole-related processes Period 2- implement intake, classification, and housing processes Period 3- implement rehabilitation and reentry processes
1999-2000	October through February- planned conversion of manual and automated data, conducted 330 site surveys for installation of network and hardware, potential technology enablers (e.g., document imaging) were initiated.
2000	May- vendor concludes use of existing software system (as described in their proposal) failed to properly address all of the system requirements.
2000	October- Vendor proposed development of a custom web-based solution, TDCJ accepted. Contract for developing a new system was signed on 10/20/2000.
2001	June- first laptop PCs were installed in Parole Division.
2001	August- first project completion date missed, new date set for August 31, 2002.
2001	October- Wide Area Network, supporting 104 prison facilities, 87 parole

	offices, and 7 administrative hubs, was upgraded to a TCP/IP standard. enabled use of PCs, introduced widespread use of Internet in the agency to provide capability for remote users to electronically transfer data and satisfy state mandates.
2002	August- second project implementation completion date missed. New date set for January 6, 2003.
2002	December- Results of system testing indicated code did not provide functionality defined in the system requirements. Sapient 'disagreed and an impasse resulted.'
2003	Vendor contract allowed to expire. All software code, computer equipment and documentation turned over to TDCJ. TDCJ Information Technology Division assumed development of system.
2004	September- Period I (parole) Release 1 (supervision) placed online.
2006	September-Implementation of parole pre-release sub-system completed
2007	September-Period I Release 2 (pre-release) placed online for use of subsequent review of offenders previously entered in Pre-Release system.
2008	July- Acceptance testing of Period I Release 3 (Parole Violation and Revocation- PAVR). Testing resulted in additional changes.

Thirteen years in, a reported \$32.3 million tax dollars later, the OIMS project is still not fully implemented. The OIMS Phase III, Period 1, Release 1 (Supervision) has been in use since September of 2004 and has experienced problems with response time, unnecessary re-entry of data, and system outage. The Parole division has replaced 400 laptops and has begun delivery and set up of approximately 500 refurbished personal computers obtained from another state agency, of which 269 have been delivered. The division replaced 80 laptops this year with broken hinges.³ When the parole supervision piece came online, parole officers were expected to transition from mainframe and heavy paper intensive files to the web based information system. According to personnel, the only positive result of OIMS is the ability to scan file material which began in July of 2006. However, the scanning system does not "talk" to OIMS or the mainframe (legacy system) and manual processing continues. Department personnel report slow system performance and inadequate equipment limits usability of OIMS contributes to system's poor performance. Other issues identified are server capacity, constant laptop replacement, OIMS automatically logging users off the system causing users to re-enter data, unknown progress of a case in the review process and processing MRIS, CU, PIA cases.

In the Period II, (pre-release) which is not yet operational, there are constant 'work arounds' where the system is designed to screen for certain criteria then provide that information to the parole board for a specific vote. If somewhere along the line a data field is missing, internal tech division performs a 'work around' to pass the error to a programmer who then makes the system do the function but not within normal structure of the system.

There are a number of future enhancements identified and the OIMS project has had a number of missed deadlines. According to the State Auditor's report in June of 2008, TDCJ lacks a documented process to guide completion of the OIMS project, including documented procedures for controlling changes to the system design and for user acceptance.⁴

RECOMMENDATIONS

- The Texas Legislature should consider funding the JCMS project if TYC enters into the development.
- The Texas Legislature should consider terminating or suspending funding of the OIMS system.
- The Texas Legislature should consider using any other technology measures to enhance the criminal justice system capabilities, starting with security.

CHARGE 2: CONSIDER NEW STRATEGIES FOR MEETING PRISONER REENTRY CHALLENGES IN TEXAS, INCLUDING THE EVALUATION OF PROGRAMS WITH DOCUMENTED SUCCESS. THIS REVIEW SHOULD INCLUDE THE AVAILABILITY OF HOUSING AND OCCUPATIONAL BARRIERS.

In response to this charge, the House Committee on Corrections held a public hearing on August 21, 2008. The Committee heard both invited and public testimony.

BACKGROUND

Each year, approximately 50,000 former prisoners return to our communities. To accomplish positive change in offender behavior and reintegration of offenders into society, effective communication and collaboration between various state organizations and local communities is needed. These returning ex-offenders face multiple barriers to successful reintegration including housing, employment, and transportation.

Within the Texas Department of Criminal Justice is the Rehabilitation and Reentry Programs Division (RRPD). RRPD is the coordinating entity for treatment programs and rehabilitation and reentry services for the TDCJ. The RRPD coordinates with the Parole Division, Community Justice Assistance Division, Health Services Division, Correctional Institutions Division, the Windham School District, the Board of Pardons and Parole, and community-based organizations and volunteers to provide treatment services for individual offenders throughout incarceration and supervision period.

FINDINGS

Upon intake at TDCJ, offenders are tested and interviewed to determine classification and used in the development of an Individualized Treatment Plan. Offender placements into programs are governed by the offender's needs, program space availability, custody status, among other factors. The Windham School District is a program designed to meet educational needs of offenders thus increasing offenders' success in obtaining employment upon release. TDCJ offers vocational programs such as Career and Technology Education, Prison Industry Certification Program (PIE), and Work Against Recidivism (WAR). Offenders in the PIE program agree to pay a percentage of their earned income for room and board, cost of supervision, restitution, crime victim's compensation, savings and dependent care. Participants in the WAR program are offered various on-the-job training programs. Statistics for Fiscal Years 2001-2005 show that 1,278 participants in the program, of those released 93% were working at jobs with an average hourly wage of \$10.57.⁵

Project Re-Integration of Offenders (RIO) is a collaborative partnership between three state agencies, TDCJ, the Texas Youth Commission (TYC), and the Texas Workforce Commission (TWC). It helps ex-offenders reenter the labor market by equipping them with the necessary skills, attitudes, and abilities, and guiding them toward post release job opportunities. In TDCJ, offenders within 24 months of their projected release are eligible for Project RIO services.

Project RIO Intake, Obtained Employment, and Release Statistics⁶			
Variable	FY'05	FY'06	FY'07
Number of Adult Offenders Released	69,846	71,214	72,032
Number of Project RIO Adult Participants Served by TDCJ	69,720	65,182	61,663
Number of Project RIO Adult Participants Served at Texas Workforce Centers	42,033	39,337	37,187
Number of Project RIO Adult Participants Entering Employment after exiting post-release service provision	22,098 (68%)	20,863 (70%)	21,807 (72%)
Project RIO Employment Retention over three-quarter period following exit	62%	63%	64%

Some challenges in facilitating successful reentry involves limited availability of programs, though the 80th Legislature expanded diversion and treatment programs, not all programs have been fully expanded. Program expansions that were approved include:

- 1,500 new Substance Abuse Felony Punishment Facilities (SAFPF) beds
- 1,000 additional In-Prison Therapeutic Community (IPTC) beds (tripling size of the program)
- 1,200 new substance abuse treatment slots in state jails
- 500 new beds providing specialized treatment for DWI offenders
- 800 residential treatment beds
- expanded out-patient treatment services for probationers.

Other challenges identified point to community opposition to releasing offenders residing in their communities. However, counties such as Travis and Tarrant counties have created their own community panels. Tarrant County created the Tarrant County Reentry Council (TCRC) to provide formerly incarcerated individuals returning to Tarrant County with tools and support to reintegrate back into the community. The TCRC is divided into 9 subcommittees, open to any resident of Tarrant County, that focus on evidence based practices, funding, housing/community support, employment, mental health/substance abuse, health care, policy and law, faith based support systems, and transitional preparation. The TCRC's initiative is to support the formerly incarcerated by facilitating connections to reentry sources within the community. Travis County created the Austin/Travis County Reentry Roundtable to bring together volunteers and community organizations to assist formerly incarcerated persons in finding housing, employment, and health services.

While other communities need to follow in the footsteps of Tarrant and Travis counties, the state can assist in what has been identified as the greatest challenges of reentry, licensing. One of the greatest deterrents to future crimes is meaningful full-time employment. In the 80th session, time ran out to pass SB 1750 which would have allowed nonviolent ex-offenders to obtain provisional licenses for

most occupations. The provisional license provides an opportunity for ex-offenders to earn a living while enabling the agency to revoke the license if the ex-offender violates any occupational rule or terms of probation or parole.

RECOMMENDATIONS

- The Texas Legislature should continue funding of re-entry programs currently in place and continue to expand diversion treatment programs.
- The Texas Legislature should consider allowing nonviolent offenders to obtain provisional licenses for most occupations.

CHARGE 3: PROVIDE A COMPREHENSIVE ANALYSIS AND STUDY OF THE TEXAS STATE JAIL SYSTEM, INCLUDING ORIGINAL INTENT FOR USE, SENTENCING GUIDELINES, AND EFFECTIVENESS. DEVELOP SUGGESTIONS FOR CHANGES AND IMPROVEMENTS IN THE STATE JAIL SYSTEM.

In response to this charge, the House Committee on Corrections held a public hearing on August 21, 2008. The Committee heard both invited and public testimony.

BACKGROUND

In 1993, the Texas Legislature reconfigured the Penal Code to create a new class of offense, state jail felonies. In doing so, certain non-violent class A misdemeanors and third degree felonies were reclassified to state jail felony offenses. The reclassification mainly impacted property crimes and the manufacture, delivery, and possession of small quantities of drugs. This new program initiative was intended to serve several purposes. First, it created a new class for felony offenses -- state jail felonies. Second, it was to increase the time served by violent offenders. Third, it was anticipated that the outcome of such major revisions would result in reduced pressures on the prison population. Fourth, it supported community involvement and positive reintegration of offenders into their communities by including an array of programming to address offender risks/needs.

FINDINGS

The 1993 law became effective in September 1994. There are currently 16 state-operated state jails and five state jails that are privately operated. State jails traditionally house nonviolent offenders who are serving less than two years. Generally, they're going to be those convicted of lower drug crimes, burglaries or thefts, those types of crimes that are nonviolent. The statute also allows for offenders sentenced to an institutional division to spend time in transfer status in state jails. State jails are housing approximately 13,000 state jail felons and just under 13,000 transfer offenders with the average length of stay of 9.7 months.⁷

At a state jail, an offender is not eligible for early release or parole; however pursuant to legislation from the 80th session, some state jail inmates are eligible for the medically recommended intensive supervision program. Legislation from last session also allowed a court to credit time served in a substance abuse treatment facility or other court-ordered treatment facility towards time required to be spent in a state jail. Testimony suggested allowing state jail felons to earn good time for early parole. State jail felons serve no more than 2 years, and it is unlikely that an offender would choose 6 months of parole versus staying in the state jail for the remainder of their sentence.

RECOMMENDATIONS

The Committee could not conclude valid data to provide legislative recommendations. The Legislature should continue providing funding for diversion treatment for non violent offenders and utilize community corrections.

CHARGE 4: STUDY THE ORGANIZATIONAL STRUCTURE OF THE TEXAS YOUTH COMMISSION AND THE TEXAS JUVENILE PROBATION COMMISSION TO DETERMINE IF THE CURRENT SYSTEM IS EFFECTIVELY AND EFFICIENTLY ADDRESSING THE NEEDS OF THE JUVENILE JUSTICE SYSTEM IN CONJUNCTION WITH THE SUNSET REVIEW OF THESE AGENCIES. (JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES)

In response to this charge, the House Committee on Corrections Subcommittee on Juvenile Justice and Education and House Committee on Juvenile Justice and Family Issues held a joint public hearing on April 17, 2008. The Committees heard both invited and public testimony.

BACKGROUND

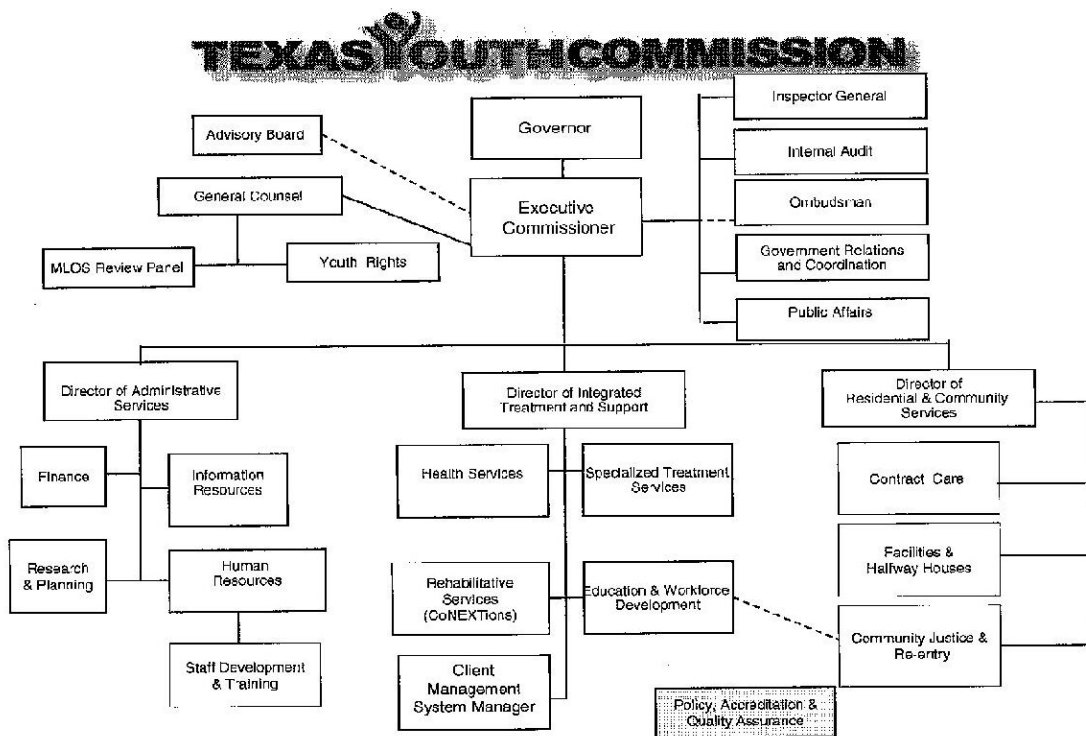
The Texas Youth Commission (TYC) and Texas Juvenile Probation Commission (TJPC) are currently under Sunset review. The Sunset Advisory Commission was created in 1977 by the Texas Legislature to identify and eliminate waste, duplication, and inefficiency in government agencies. The Sunset Process is guided by a 12-member body of legislators and public members appointed by the Lieutenant Governor and the Speaker of the House of Representatives. The Sunset Advisory Commission recommends actions on the agency under review to the full Legislature. The Commission will vote on recommendations on January 14, 2009.

The Texas juvenile justice system consists of two primary state-level agencies devoted to juvenile justice functions. These agencies are the TYC and TJPC. The Texas Youth Commission is the state agency that operates the institutional component of the juvenile justice system. The Texas Juvenile Probation Commission operates probation services to juveniles throughout the state. TYC serves about 5% of the youth in Texas' juvenile justice system while TJPC serves about 95%.

FINDINGS

Organization of TYC

From March 28, 2007 until October 14, 2008 TYC went through three Conservators until the Governor ended the conservatorship and an executive commissioner was appointed. The Executive Commissioner receives guidance from a nine-member advisory board with three members each appointed by the Governor, Speaker, and Lieutenant Governor. As of December 18, 2008 the board was fully appointed. TYC had a staff of approximately 4,200 with about 335 positions in TYC's headquarters in Austin. The central office staff develops and oversees agency policies; treatment and rehabilitation programs; facility and parole operations; and basic agency functions. The new Executive Commissioner has eliminated a number of vacant positions and will make additional reductions after January 1, 2009. As of November 2008, TYC is currently structured as below:



Rehabilitation at TYC

In December of 2008, TYC developed a Population Capacity Plan⁸ for the remainder of FY 2009. Implementation of this plan is set between December 1, 2008 and April 1, 2009:

- Establishing an operational capacity for each TYC facility;
- Right-sizing the number of full time employees (FTEs) at each facility based on operational capacity;
- Expanding the availability of specialized treatment to 35% of the population in TYC and contract care facilities;
- Initiating new services that are based on evidence-based program models and
- Strengthening our capacity for regional service delivery systems and re-entry.

The plan includes capacity for specialized treatment at TYC facilities:

- Add Sex Offender (SOTP) and Capital Offender treatment for females at Ron Jackson I.
- A 60-day specialized program for youth whose parole is revoked for misdemeanor and/or technical violations will be established at Ron Jackson II as an alternative to placing these youth in other TYC secure programs. A 16-bed relapse prevention chemical dependency

(CD) program will initially be available at this facility (this will expand to 39 beds later in the FY 2009).

- CD treatment programs will expand at Al Price and Gainesville. A new CD treatment program will be established at Victory Field, Ron Jackson II and York House. CD and sex offender treatment program will expand at Giddings.
- Mental health treatment beds will be re-established at Crockett with at least one unit serving youth with co-occurring disorders.

The final phase of the FY2009 Population Capacity Plan involves contract care and re-entry in urban counties. TYC currently has limited capacity for gender-specific re-entry programs. TYC will be issuing a request for proposal (RFP) for gender-specific transition services that include Multi-dimensional Treatment Foster Care and Independent Living to serve up to 24 youth. Another RFP will be issued for up to 48 beds providing a chemical dependency treatment program in an urban county. Based on the current population, TYC plans to deliver specialized treatment at the following rates:

FY2010	45%
FY2011	55%
FY2012	60%

TYC will be asking the 81st legislature for authorization to utilize the \$25 million appropriated in 2007 for three 48-bed secure facilities to be located in urban counties. Based on current population, it is expected that these facilities will provide chemical dependency, mental health, co-occurring and/or sex offender treatment. If approved, TYC will initiate the process for construction in FY2010 with program implementation planned for FY2011.

As a result of reforms in 2007, TYC discontinued its previous rehabilitation program, Resocialization, with plans to implement a new program, CoNEXTions. TYC expects to have the program in place at all institutions by summer of 2009. The assessment, classification and placement system will be fully integrated within the CoNEXTions program. The CoNEXTions program will link counseling, case management, living unit, educational and security activities of youth.

- **Assessment & Orientation**
Upon admission to the TYC assessment units, youth are assessed over multiple areas: mental health, education, vocation, and medical needs as well as being identified for specialized treatment programs. Youth will be classified according to their committing offense and needs, and are assigned to a permanent placement dependent upon an assortment of issues. Planning for transition/re-entry into the community begins during assessment and continues throughout the youth's time in TYC.
- **General Treatment Program**
Programs within the TYC, including education and workforce development will be assessed to provide a comprehensive plan of rehabilitation for each youth that addresses specific needs

of that individual youth. Programs will focus on areas such as anger management, chemical dependency education, mental health support, and psycho-sexual development.

- **Specialized Treatment**

The specialized treatment programs include: Capital and Serious Violent Offender Treatment Program, Chemical Dependency Treatment Program, Mental Health Treatment Program, and Sexual Behavior Treatment Program. In these programs, youth receive treatment services from specially trained or licensed staff.

- **Education, Vocational Training, and Workforce Development**

The CoNEXTions program will implement Positive Behavioral Interventions and Support (PBIS) in all schools as part of a federal and state mandate to improve classroom management of students. PBIS will complement and integrate a data-collection program that can be used in tracking behavior changes for multidisciplinary treatment team reviews.

Youth will be evaluated at least monthly by their treatment team, which consists of their case manager, an assigned educator, and juvenile correctional officers. Parents may participate in the multi-disciplinary team meeting. Staff re-assesses a youth's treatment progress every 90 days, changing treatment objectives as needed to meet the individual youth's needs and target building specific skills.

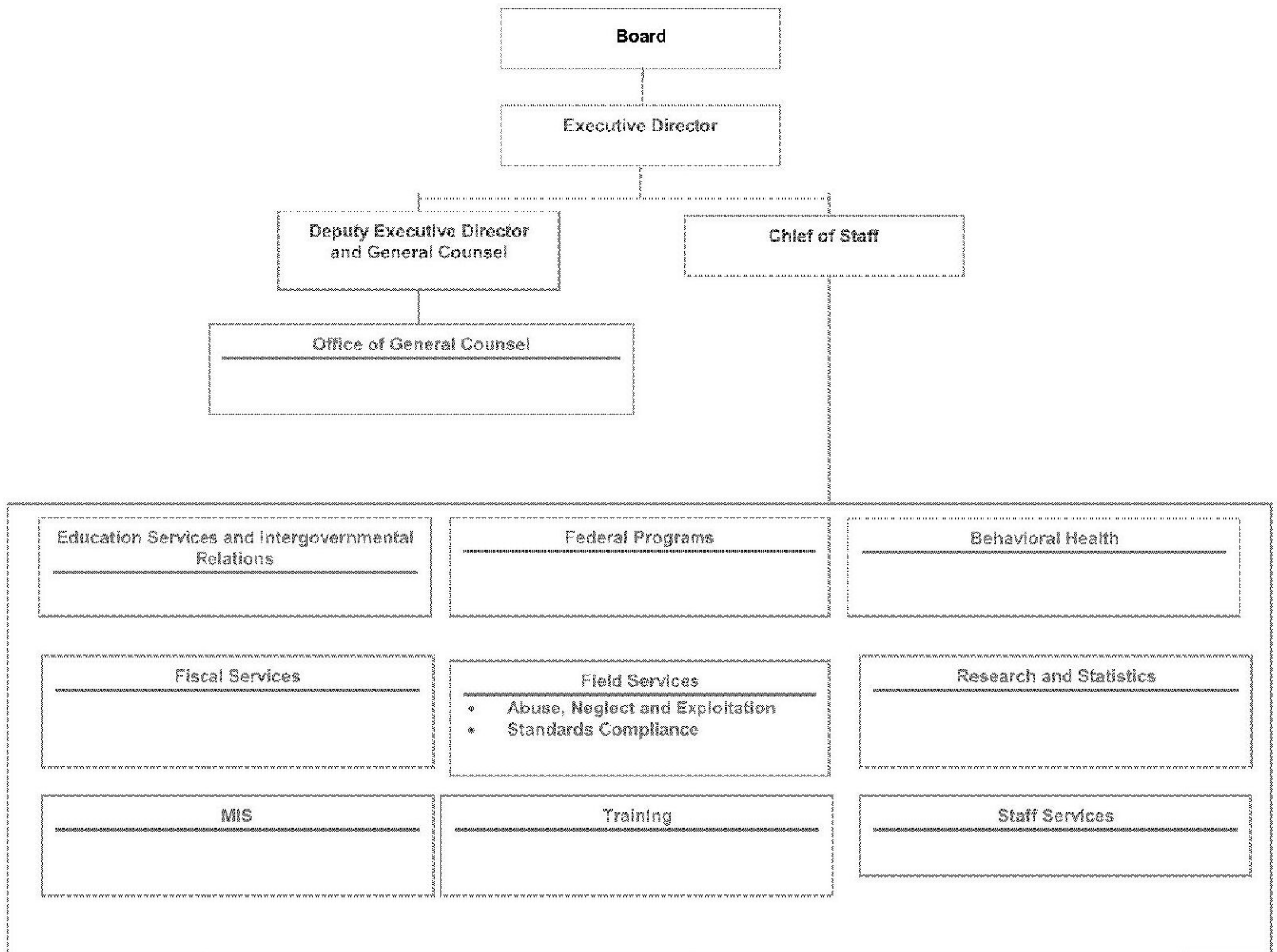
Organization of TJPC

The Texas Juvenile Probation Commission has 166 juvenile probation departments serving all 254 counties and 86 secure detention and post-adjudication facilities statewide. TJPC receives guidance from a commission of nine members appointed by the Governor. The Commission hires a, Executive Director (with approval from the Governor) to administer daily operations of the agency. The agency has 67 positions in Austin. The juvenile probation departments operate with approximately 5,799 probation and detention officers. TJPC is currently structured as below:

Texas Juvenile Probation Commission

ORGANIZATIONAL CHART

67 Full Time Employees



Rehabilitation at TJPC

The agency oversees the juvenile probation system in Texas by disbursing funds to local probation departments; monitoring departments' compliance with established standards; providing probation assistance services to departments; and supporting education and mental health programs. TJPC has oversight and distributes funds to Juvenile Justice Alternative Education Programs (JJAEPs) to provide educational services to youth expelled from school. As of FY 2007, 26 counties are required to have a JJAEP and 8 smaller counties have selected to operate one. Juveniles are placed in a JJAEP through mandatory placements, discretionary placements, or placement by a juvenile court as a condition of probation. Most counties develop JJAEPs under educational models such as a traditional school or a therapeutic school.

TJPC plans to work on expansion and enhancement of community based programs as well as secure and non-secure residential placements that will divert youth from TYC. The agency also plans to use funds to work in coordination with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), and local mental health services agencies, to provide specialized supervision caseloads to youth with mental illness. In a recent study⁹ conducted by the research staff of TJPC, the gap between juvenile probationers who need mental health services and those of that population who actually receive needed services was identified. The table below depicts the service gap for those youth for FY2001-FY2006:

	Percent Estimated to be Mentally Ill:	Percent of Mentally Ill Receiving MH Services:	Percent of Mentally Ill Not Receiving MH Services:
FY 2001	24.6%	30.7%	69.3%
FY 2002	25.7%	35.2%	64.8%
FY 2003	26.1%	36.7%	63.3%
FY 2004	26.5%	32.8%	67.2%
FY 2005	26.7%	33.4%	66.6%
FY 2006	26.3%	40.5%	59.5%

TJPC currently CASEWORKER, an automated juvenile tracking and case management system designed, developed and provided by the Commission to all juvenile probation departments and juvenile probation facilities in Texas to collect, store, retrieve and print juvenile caseload information. CASEWORKER is utilized by more than 98% of juvenile probation departments in Texas to facilitate case management and statistical compilation of data. TJPC wants to extend the capabilities of CASEWORKER to its newest venture, the Juvenile Management Case System (JCMS). JCMS is designed to provide statewide data sharing between the 166 local juvenile probation departments. The system will consist of a core case management including information on intake, referral, case management, and so forth.

Overlaps

The Texas Youth Commission and Texas Juvenile Probation Commission have both committed to achieving a state and local partnership that ensures a comprehensive and coordinated juvenile justice system. The two agencies have identified three main goals:

1. Protect the public from the delinquent and criminal acts of juveniles who are under the jurisdiction of the local juvenile courts or TYC.
2. Rehabilitate youth to become productive and responsible citizens.
3. Reduce delinquency through the provision of support, services, training and technical assistance.

Reentry services for juvenile offenders are critical for both TYC and TJPC. Both agencies are committed to a youth's successful transition back into the community. In some areas of the state, TYC contracts with county juvenile probation departments or a private entity to supervise paroled youth.

Both state agencies are developing their own systems to maintain information on youth such as education and treatment. Sunset report states there are no coordinated efforts between the two agencies. If databases were developed so that information could be passed between both agencies, then that would further enhance the goal of continuum of care. For example, under statute, TYC notifies courts ten days prior to releasing a youth to parole however the notification does not include the youth's progress in treatment at TYC. If databases were created to "talk" to one another, progress within a youth's time at TJPC and/or TYC could be translated.

Both agencies want to expand and enhance community based programs and service areas of particular concern include substance abuse and mental health. TYC, TJPC, TCOOMMI, and other state agencies are working together to develop a plan for indentifying and treating service needs of a juvenile offender with mental impairments. For the purpose of continuity of care, the agencies are working on legislation to enable the agencies to create a memorandum of understanding to establish methods to identify youth in the juvenile justice system with a mental health need and allow the disclosure of information.

RECOMMENDATIONS

The House Committee on Corrections will not take a position on the Sunset report recommendations at this point. The Committee would like to take in consideration the Sunset Advisory Commission's vote on January 14, 2009 and hold our own hearings thereafter to explore the progress of SB 103 and each individual agency. The Committee would like to note that if consolidation is the direction the Legislature would like to take, then the 81st Legislative session would be the ideal time to chart a new direction in juvenile justice as both agencies were under Sunset review.

CHARGE 5: STUDY DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS AND JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS, INCLUDING REFERRAL RATES, AGE OF STUDENTS, WHETHER PARENTS HAVE SUFFICIENT RECOURSE TO CHALLENGE A PLACEMENT, FUNDING, AND COURSE REQUIREMENTS. (JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES)

In response to this charge, the House Committee on Corrections Subcommittee on Juvenile Justice and Education and House Committee on Juvenile Justice and Family Issues held a joint public hearing on April 17, 2008. The Committees heard both invited and public testimony.

BACKGROUND

Disciplinary Alternative Education Programs (DAEPs) are alternative education environments for students who commit virtually any disciplinary violation or criminal offense. Students removed from school for more than three days must be sent to a DAEP with an average length of stay is 30-40 days. Some DAEP campuses are located on the regular school campus while most others are off-campus. The Texas Education Code mandates a DAEP referral for specific types of student misconduct on or near school grounds or at school-sponsored activities or any of the following:

- Committing a felony or engaging in conduct punishable as a felony
- Injuring another person during an assault
- Selling, giving, possessing, or being under the influence of a dangerous drug or alcohol
- Committing an offense that involved volatile chemicals, public lewdness, or retaliation against a school employee
- Committing an offense listed in the student code of Conduct
- Superintendent may choose to keep a student in a DAEP for felony conduct occurring off campus

School districts may exercise discretion to send students to a DAEP for other types of misconduct specified in their student Code of Conduct with virtually unlimited discretion to refer students to DAEPs for even a single disciplinary infraction of any kind. Every school district is required to provide a DAEP and districts may join together to provide such a program.

A juvenile board of a Texas county with a population greater than 125,000 must establish a Juvenile Justice Alternative Education Programs (JJAEP), subject to the approval of the Texas Juvenile Probation Commission (TJPC). JJAEPs are non-residential programs that provide seven hours of daily instruction. TJPC oversees JJAEPs, which are operated by counties, school districts, or non-profits that contract with counties. Juvenile courts in these counties must order expelled students to attend a JJAEP if a court finds they have engaged in delinquent conduct under Title 3 of the Family Code. Students are sent to a JJAEP if they are ordered by Juvenile Court, expelled by school district (includes discretionary and mandatory placement). Most JJAEP students have been expelled to the JJAEP by a public school. Under Section 37.007 of the Education Code, expulsion is mandatory for serious offenses committed on-campus such as murder, aggravated kidnapping, and drug dealing. The Education Code also allows for discretionary expulsions to which this performance measure refers for less serious offenses such as alcohol possession on school grounds, sniffing glue or aerosol paint, and “serious and persistent misbehavior” at a DAEP.

FINDINGS

The Texas Juvenile Probation Commission (TJPC) provides oversight and publishes data on Juvenile Justice Alternative Education Programs, ensuring JJAEPs are held accountable for student academic and behavioral success. TJPC submits a performance assessment report to the Legislative

Budget Board and the Governor. The report includes:

- an assessment of the degree to which each JJAEP enhanced the academic performance and behavioral improvement of attending students;
- the percent of eligible JJAEP students demonstrating academic growth in the Texas Assessment of Knowledge and Skills (TAKS);
- average cost per student attendance day for JJAEP students;
- a comprehensive five year strategic plan for the continuing evaluation of JJAEPs which shall include oversight guidelines to improve: school district compliance with minimum program and accountability standards, attendance reporting, consistent collection of costs and program data, training and technical assistance needs.

Disciplinary Alternative Education Programs lack standards and oversight that the state applies to JJAEPs. Last session, HB 426 required TEA to develop minimum standards for the operation of DAEPs, but not monitor and enforce those standards. TEA will publish a report in December of 2008 to provide an estimate of cost of enforcing standards and on-site monitoring. Data is needed on students' subsequent academic achievement, behavior, attendance, and encounters with the criminal justice system. Some DAEPs are only half day programs. Legislation from last session would have required a full school day but was not passed. DAEPs are not required to offer the courses needed to graduate and most fail to offer an elective. The largest school districts should be required to do so and smaller districts should take advantage of the new virtual schools legislation passed last session.

In TJPC's performance assessment report, the number of cases of students placed in JJAEPs for serious and persistent misconduct was listed as a challenge. Recommendations included creating legislation to eliminate the discretionary student expulsions, especially for serious and persistent misconduct. "Discretionary expulsion" reasons are:

- any mandatory offense within 300 feet of school campus
- aggravated assault, sexual assault, aggravated robbery, murder or attempted Murder occurring off campus against another student
- misdemeanor drug and alcohol Offenses
- assault on a teacher or employee
- serious or persistent misconduct while in a DAEP
- felony Criminal Mischief
- deadly conduct
- terroristic threat
- inhalants
- non expelled students who are ordered by a juvenile court judge

Some students are sent to JJAEPs by a school district for continuing to misbehave in a DAEP, which does not necessarily involve an offense at all.

RECOMMENDATIONS

- The Texas Legislature should consider requiring the Texas Education Agency (TEA) to monitor and enforce standards for Disciplinary Alternative Education programs.
- The Texas Legislature should consider eliminating the discretionary student expulsions to a JJAEP for serious or persistent misconduct while in a DAEP under TEC Section 37.007(c).

CHARGE 6: REVIEW AND RESEARCH THE AVAILABILITY, COORDINATION, EFFICIENCY, AND ALLOCATION OF SUBSTANCE ABUSE TREATMENT RESOURCES FOR PROBATIONERS, PRETRIAL DEFENDANTS, PEOPLE IN THE CUSTODY OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE (TDCJ), AND PAROLEES. THIS REVIEW SHOULD INCLUDE METHODS TO REDUCE AND IMPROVE CURRENT ASSESSMENTS, TRAINING, AND REFERRING PROTOCOLS AND THE IDENTIFICATION OF ANY BARRIERS THAT MAY BE IMPEDING ALL OF THE ABOVE. (JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON APPROPRIATIONS)

In response to this charge, the House Committee on Corrections Subcommittee on Substance Abuse and Mental Illness and the House Committee on Appropriations Subcommittee on Criminal Justice held a joint public hearing on May 29, 2008. The Committees heard both invited and public testimony.

BACKGROUND

The 80th session provided funds for approximately 3,000 probationers with outpatient substance abuse treatment by an increase of Intermediate Sanction Facility beds by 700, Substance Abuse Felony Punishment Facility (SAFPF) Treatment beds by 1,500 and Community Corrections Facility beds by an additional 854 beds. Outpatient services for substance abuse include levels of services from regular outpatient to intensive outpatient and relapse prevention.

Drug courts are judicially-led, intensive supervision, case management and treatment programs with ongoing interaction between the judge and participants. Drug courts can facilitate treatment and recovery at any point in the criminal justice process: pre-indictment/pre-trial, post-adjudication (probation), or re-entry from a residential program or a SAFPf. Research nationally indicates that drug courts have a greater impact on reducing recidivism than other substance abuse options. HB 530 from the 80th session expanded drug courts to counties with populations of 200,000 or more, down from previous mandate of 550,000.

FINDINGS

As a result in the expansion of the SAFPf and other treatment beds, TDCJ recognized the need to increase number of Transitional Treatment Centers (TTC) beds contracted. TDCJ increased contract beds from 1,454 in January of 2007 to 1,599 in May 2008 by modifying existing contracts with vendors.¹⁰ TTC's provide substance abuse treatment in the community for offenders released from a Substance Abuse Felony Punishment facility or In-Prison Therapeutic Community. TTC's provide up to three months of residential treatment, followed by outpatient counseling for up to twelve additional months. There is a persistent shortage of Licensed Chemical Dependency Counselors (LCDCs), more so in rural areas.

Results of HB 530 expanding drug courts is as follows¹¹:

Objective	Reported results during 1st 6 months of	Reported results during 1st of 6 months	Change that resulted after HB 530 was
	FY 2007	of FY 2008	enacted
Number of people assessed for eligibility to participate in the program:	3921	5456	People Assessed Increased by 28%
Number of new enrollments in the program:	1307	1594	New Enrollments increased by 18%
Number of participants:	3666	4450	Participants increased by 18%
Number of participants that earn a GED, high school diploma, or vocational training credential while in the program:	55	64	Participants increased by 14%
Number of participants employed at graduation:	399	618	Participants employed increased by 35%
Number of participants that successfully completed the program: (Graduated or completed term of probation)	739	952	Participants successfully completing program increased by 22%

RECOMMENDATIONS

- The Texas Legislature should consider continuing funding of drug courts.
- The Texas Legislature should consider continuing funding of substance abuse treatment services.
- The Texas Legislature should consider incentives to recruit and retain quality substance abuse treatment professionals.

CHARGE 7: STUDY POLICIES AND PROCEDURES RELATED TO ILLEGAL IMMIGRATION AND BORDER SECURITY OF THE TDCJ, COUNTY PROBATION DEPARTMENTS, AND LOCAL AND COUNTY JAIL FACILITIES, AND MAKE RECOMMENDATIONS TO IMPROVE COORDINATION WITH INTERNATIONAL, FEDERAL, STATE, AND LOCAL AUTHORITIES. (JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON COUNTY AFFAIRS)

In response to this charge, the House Committee on Corrections and House Committee on County Affairs held a joint public hearing on February 1, 2008. The Committees heard both invited and public testimony.

BACKGROUND

The mission of the Texas Department of Criminal Justice is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime. The Texas Department of Criminal Justice (TDCJ) manages offenders in state prisons, state jails, and private correctional facilities that contract with TDCJ.

Community Justice Assistance Division (CJAD) administers adult probation. CJAD works with community supervision and corrections departments (CSCD) which supervise offenders. The mission of the division is to help Texas communities protect the public, help rehabilitate offenders and serve the victims of those offenders by developing sound public policy that leads to effective, community-based programs and services.

The Texas Commission on Jail Standards (TCJS) is the regulatory agency for all county jails and privately operated municipal jails in the state. Their mission is to assist local governments in providing safe, secure and suitable local jail facilities.

Immigration and Customs Enforcement (ICE) is the largest investigative branch of the Department of Homeland Security (DHS). The agency was created in March 2003, combining the law enforcement arms of the former Immigration and Naturalization Service (INS) and the former U.S. Customs Service, to more effectively enforce immigration and customs laws and to protect the United States against terrorist attacks.

Article 1, section 8, clause 4 of the United States Constitution authorizes the federal government with the exclusive power over immigration matters and to establish a uniform rule of naturalization. The federal government delegates ICE with specific authority to investigate a person's immigration status and deport individuals who have no legal status to reside in the United States. The State of Texas faces challenges with illegal immigration on a daily basis. However, the Texas Legislature must act diligently and accordingly when creating new local and state laws dealing with immigration to ensure legislation passed is not preempted by federal law.

TDCJ

In 1995, the Texas Legislature passed S.B. 279 requiring the Texas Department of Criminal Justice to identify deportable noncitizens and notify the Immigration and Naturalization Service (now ICE). That legislation added Section 493.015 to the Government Code and required the Texas Department of Criminal Justice to promptly notify ICE of inmates who are imprisoned in the institutional division or confined in a transfer facility, a substance abuse treatment facility, a state jail felony facility, or a county jail awaiting transfer to the institutional division and for whom the department is unable to reasonably ascertain whether or not the person is an illegal criminal alien. The legislation was effective immediately and in that same year a working relationship between the Texas Department of Criminal Justice and the former Immigration Naturalization Service was formalized

with the creation of the Texas State Enhanced Institutional Hearing Program (IHP). The purpose of the program is to identify criminal aliens incarcerated in TDCJ, begin deportation proceedings against them while they are incarcerated and deport them after they serve their state prison sentence.

Criminal aliens
are noncitizens residing in the United States either legally or illegally, have been convicted of a felony and in the custody of the state.¹²

Noncitizens who commit crimes are prosecuted and punished the same way as U.S. citizens. After serving their sentence, some noncitizens (including documented immigrants) are deported back to their home countries depending on the severity of their crimes. The role of TDCJ begins with the identification of potentially deportable, foreign-born offenders by intake staff and the reporting of those identified to ICE. ICE interviews the individual and decides whether to issue a detainer. An ICE detainer flags a criminal alien in custody and asks law enforcement to hold the inmate. When the individual serves his or her sentence, ICE agents pick up the individual to begin deportation proceedings. Deportation can only occur after completion of the inmate's sentence.¹³

The process is as follows:¹⁴

- Foreign-born offenders are identified at all TDCJ intake sites
- ICE staff in the IHP are notified of each offender's arrival
- Upon request from ICE, male offenders are transported to the Holliday Unit in Huntsville and female offenders in the Gatesville area for interview
- When the interview process is completed, offenders are returned to their regular unit of assignment
- If ICE lodges a detainer, then ICE officials are notified at the time of release
- ICE staff with the IHP then assume custody of the offender at the Huntsville Unit Releasing Office

Offenders requiring a deportation hearing are transported to the IHP building in Huntsville. The Executive Office of Immigration Review provides immigration judges and ICE trial attorneys. TDCJ provides offenders with counsel through the State Counsel for Offenders office.

Statistics as of December 31, 2007:¹⁵

- 11,768 offenders claim foreign place of birth
- 10,634 offenders claim foreign citizenship
- 7,080 offenders have ICE detainers
- 2,816 offenders have final orders of deportation*

*Final orders are as of November 30, 2007, and include male prison offenders only

Executive officials at both the Texas Department of Criminal Justice and Immigration and Customs Enforcement report a strong relationship with one another. Both agencies work together to process these criminal aliens through removal proceedings while imprisoned to ensure they are promptly removed at the end of their sentences. ICE often holds TDCJ out as a model for how a criminal justice system should partner with federal agencies.

CJAD

The Texas Community Justice Assistance Division has oversight over 122 community supervision and corrections departments (CSCD). CJAD conducted a survey to collect information on procedures regarding illegal immigration. Eighty one of the adult probation departments across the state responded to the survey, and information collected was reported at the hearing to the House Committees on Corrections and County Affairs.

The chart below summarizes some of those responses:

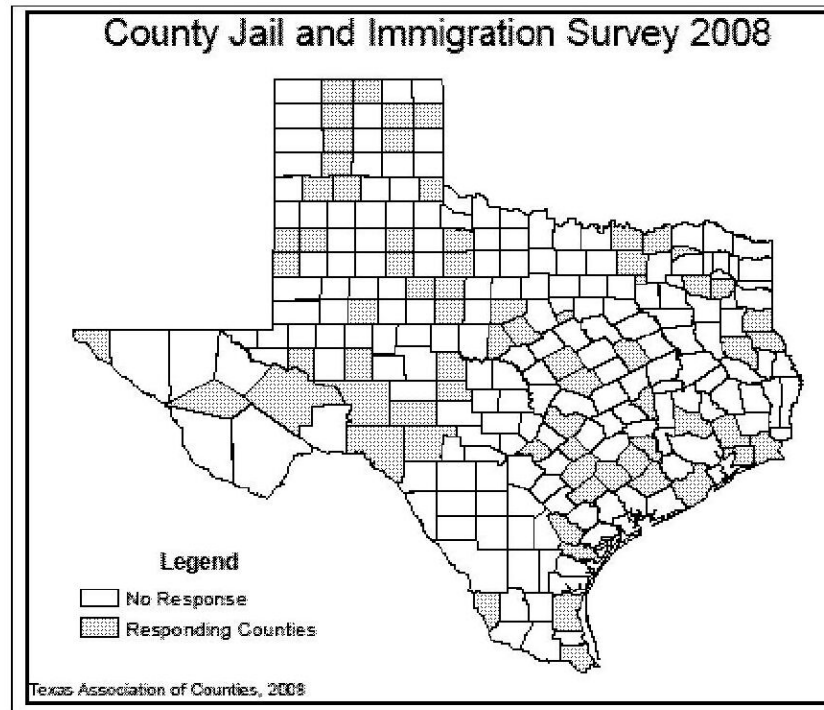
CJAD SURVEY (Percentages based on the 81 CSCDs that responded) 01/2008	YES	NO
Does your department have policies and procedures in place for dealing with illegal immigrants?	33%	67%
Does your department have procedures to verify the legal status of immigrants placed on probation?	40%	60%
How many illegal immigrants do you currently supervise?	93.4% (1-6,231)	6.6% none
How many illegal immigrants under supervision are felons?	89.3% (1-2,703)	10.7% no felons
Do you report all illegal immigrants or just illegal immigrant felons to the Immigration and Customs Enforcement (ICE) agency?	36.7% report all 31.6% only felons	31.6% none
Does your department have a formal, informal, or no relationship with ICE?	17.5% formal 51.3% informal	31.1% none

Certain CSCDs send a form of a criminal alien status report to ICE when an offender is not a US citizen or contact the local Border Patrol. Other departments only report to ICE if the court makes a request. The departments who do not have policies and procedures in place for dealing with noncitizens argue the citizenship status of an individual should occur at the earliest possible point in the criminal justice system. If individuals are identified as criminal aliens and are set for deportation after being placed on community supervision, then a significant amount of state dollars would have already been spent. CSCDs also identified challenges such as verifying citizenship status, documentation, and employment; along with language barriers and difficulty tracking noncitizens after they have left the country and finding out if they returned.

TCJS

County jails do not have a definitive process to track and report to the Texas Commission on Jail

Standards noncitizens convicted of a felony, much less a misdemeanor. The House Committees asked the Texas Association of Counties (TAC) to conduct a survey regarding the impact of illegal immigration in county jails. Seventy out of 237 county jails completed the survey. According to the TAC survey, there is an estimated 3,711 illegal immigrants in county jails as of February 2008.¹⁶



Most county departments do not have policies and procedures in place to report illegal immigrants. Over half of the responding counties reported they identify the status of citizenship at the time of booking. The standards for that identification vary from county to county; several state the status is identified on the claims of the individual while other counties ask for a driver's license.

Although immigration enforcement is vested in the federal government, local law enforcement has an increasing role in identifying and apprehending persons who commit violations of law and reporting criminal aliens.

FINDINGS

The federal government and its designated agencies such as Immigration and Customs Enforcement have clear authority and responsibility to regulate and enforce immigration laws. It is these federal agencies who have the ability to determine if a person will be criminally prosecuted for their violations of federal immigration laws or be dealt with through civil deportation process. The Texas Department of Criminal Justice has a partnership with ICE to begin a removal process against a criminal alien while he or she is incarcerated. However, currently no statewide protocols exist for other local agencies such as community supervision and corrections departments and county jails to identify noncitizens and coordinate with federal authorities. Local law enforcement agencies are ill equipped in terms of training, experience, and resources to determine citizenship status but they are

committed to "arresting anyone who violates the criminal laws of their jurisdictions regardless of the immigration status of the perpetrator. Those immigrants, documented and/or undocumented, who commit criminal acts will find no safe harbor or sanctuary from their criminal violations of the law within any major city but will instead face the full force of criminal prosecution."¹⁷

Local authorities do not have access to databases that ICE administrators do, and are therefore unable to determine citizenship status. The National Crime Information Center (NCIC) is a computerized index of criminal justice information available to federal, state, local law enforcement, and other criminal justice agencies that is operational 24 hours a day, 365 days a year. The NCIC does not have up-to-date data on 'Immigration Violator File' hits. The National Security Entry-Exit Registration System (NSEERS), available to ICE, does provide information regarding any outstanding warrant for removal of an individual or a previously deported felon. The information available in NSEERS is now being entered into the NCIC. It is essential that state and local officials have access to that information in order to assist federal authorities, recognizing they have no legal authority to independently enforce federal immigration law. It is ICE's responsibility to determine the citizenship status of inmates and whether they are in the US legally. It is the role of local and state authorities to report suspensions of noncitizens.

RECOMMENDATIONS

- The Texas Legislature should consider developing uniform guidelines to identify noncitizens in Texas' courts, jails, and probation departments.
- The Texas Legislature should consider statutorily requiring a citizenship status check of any person charged with a felony offense, pending Attorney General's opinion to RQ-0733-GA.
- The Texas Legislature should consider amending the Texas Government Code, Chapter 511.0101 Section (1) by adding a subsection (L) to include a category of citizenship status to their jail population reports to determine if illegal immigration is a cause for jail overcrowding.
- The Texas Legislature should consider requiring community supervision and corrections departments to track citizenship status in the Community Supervision Tracking System under Chapter 509.004 of the Texas Government Code.
- The Texas Legislature should change all statutory references from INS to USCIS and ICE where needed.

CHARGE 8: ASSESS THE RELATIONSHIP BETWEEN MENTAL ILLNESS AND CRIMINAL BEHAVIOR AND OFFER REFORMS NEEDED TO ADDRESS THE PROLIFERATION OF MENTAL ILLNESS IN THE ADULT AND JUVENILE CRIMINAL JUSTICE SYSTEMS. THIS REVIEW SHOULD INCLUDE AN EXAMINATION OF DATA SHARING BETWEEN CRIMINAL JUSTICE AND HEALTH AND HUMAN SERVICES AGENCIES, PROPER SCREENING, ASSESSMENTS, TREATMENT, DISCHARGE PLANNING, POST-RELEASE SUPERVISION, AND COMMUNITY SERVICES. (JOINT INTERIM CHARGE WITH THE HOUSE COMMITTEE ON APPROPRIATIONS)

In response to this charge, the House Committee on Corrections Subcommittee on Substance Abuse and Mental Illness and the House Committee on Appropriations Subcommittee on Criminal Justice held a joint public hearing on May 29, 2008. The Committees heard both invited and public testimony.

BACKGROUND

In 1987, the TDCJ Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) was established. TCOOMMI is comprised of twenty-one agencies and organizations to provide a formal structure for criminal justice, health and human service, and other affected organizations to communicate and coordinate on policy, legislative, and programmatic issues affecting offenders with special needs. Special needs include offenders with serious mental illnesses, mental retardation, terminal or serious medical conditions, physical disabilities and those who are elderly. During the 80th legislative session, \$10 million dollars in new funding was appropriated for the expansion of TCOOMMI programs.

FINDINGS

As a result of additional funding, TCOOMMI along with Community Justice Assistance Division (CJAD) funded 3 residential treatment programs for probationers with mental illnesses and a substance abuse diagnoses. Approximately 80% of people with a mental illness in the criminal justice system have a substance abuse problem. The residential programs, located in Bexar, Dallas, and Harris counties, serve as a source for courts to utilize other than incarceration. Tele-psychiatry capabilities were also expanded as a result of the appropriated funds. Tele-psychiatry enables psychiatrists to see patients from across the state without driving hundreds of miles to see that individual. There is a shortage of mental health workers in Texas, and with advances in technology mental health authorities are able to provide more timely assessments, interventions or treatment consultations due to the elimination of travel to and from facilities.

Texas is the only state in the country with a comprehensive system of care that begins at the time of arrest through post-incarceration. In order to maintain a continuity of care, sharing of information between mental health and criminal justice systems. Legislation enabled Department of State Health Services and Texas Department of Public Safety to merge mental health service history data with the Texas Law Enforcement Telecommunications System (TLETS) to share information about an individual's mental illness or history (with restrictions to protect that person's interest in privacy) at intake. Jail staff will be able to enter in the TLETS system for cross-referencing against a mental health database to find out if that individual has ever been a client of a Mental Health/Mental Retardation (MHMR) facility since 1985. As a result, low level misdemeanors could be quickly diverted from jail to treatment if resources are available.

In March of 2007, the Council of State Governments selected Texas as a recipient of a Chief Justice Led Mental Health Task Force grant. As a result, Judge Sharon Keller, presiding Judge of the Texas Court of Criminal Appeals, created a mental health task force comprised of representatives from the Legislature, Governor's office, criminal justice and mental health agencies, law enforcement, defense and prosecution. The Task Force has been reviewing the system of continuity of care and

discovered jails are not complying with a mandate to notify the magistrate of a defendant's mental illness within 72 hours of arrest.¹⁸ The provision does not require any entity to monitor or enforce the requirement, resulting in non-compliance.

The Mental Health and Mental Retardation Authority of Harris County and Harris County's Office of Budget and Management studied and analyzed various aspects mental illness in the criminal justice system in May of 2008. A section of their report examined all releases from jail between January 1, 2004 and February 29, 2008 and found¹⁹:

- Persons with mental illness number 25% of all offenders released but accounted for 37% of the cost of jail stay.
- Only half of inmates with mental illness belong to the Texas mental health target population. (Schizophrenia, bipolar disorder and major depression)
- Over a third of the motions to revoke parole were against offenders with a history of mental health service use (35%), although these offenders represent only 25% of all offenders.
- Over the four-year period, an offender with mental illness was booked into jail 57% more times than a person without mental illness.
- The annual jail cost of \$7,017 per offender with mental illness for the years studied is nearly three times the jail cost per offender without mental illness, which was \$2,599. This cost does not include police and court costs.
- Annually, Harris County files 31,781 charges against persons with mental illness per year and spends \$87,108,463 to house them in jail.
- The annual jail cost associated with persons with mental illness (\$87,108,463) is more than twice the annual State funding to provide outpatient mental health clinic services in Harris County.

Progress should continue to eliminate the use of prisons as a mental health unit, where treatment isn't always provided. The study of mental illness in the juvenile criminal justice system can be found in Charge 4 of this report.

RECOMMENDATIONS

- The Texas Legislature should consider expanding funding for case management, jail diversion, and continuity of care services.
- The Texas Legislature should consider expanding technology to assess, treat or conduct hearings for offenders.
- The Texas Legislature should consider requiring the Texas Commission on Jail Standards to monitor compliance with section 16.22 of the Code of Criminal Procedure.

**CHARGE 9: MONITOR THE AGENCIES AND PROGRAMS UNDER THE
COMMITTEE'S JURISDICTION.**

The House Committee on Corrections has jurisdiction over all matters pertaining to the following agencies: the Texas Department of Criminal Justice, the Board of Pardons and Paroles, the Texas Youth Commission, the Council on Sex Offender Treatment, the Texas Correctional Office on Offenders with Medical or Mental Impairments and the Private Sector Prison Industries Oversight Authority. The Committee asked all the agencies to provide a brief progress report regarding implementation of legislation passed from the 80th session. The following agencies provided the below information.

TDCJ

SENATE BILL 909 (TDCJ SUNSET LEGISLATION) IMPLEMENTATION HEALTH CARE AND PAROLE RELATED SECTIONS

The TDCJ Sunset bill from the 80th session contained numerous provisions impacting the agency. The implementation status of certain requirements related to health care and parole are as follows:

Quality of Care Monitoring – Section 29

This section requires TDCJ to monitor the quality of care delivered by the health care providers.

- The agency created 12 new positions to perform this function.
- Quality Monitoring has been implemented by the physician, psychologist and dentist, and monthly activity reports are being prepared.
- The physician quality monitor has established a database of disciplinary actions related to offender quality of care for credentialed and licensed university health care staff.
- Quality audit instruments have been developed for mental health services, health care administration, specialty and inpatient care.

Availability of Correctional Health Care Information to Offenders – Sections 24 and 58

This section required certain information related to offender health care to be made available to the offender population.

In May 2007, copies of the following health services documents were placed in the unit law libraries:

- Offender health services benefit plan
- Formulary (medication) booklets
- Correctional Manage Health Care Policy and Procedure Manual

Information relating processing grievances was already available via the offender handbook.

Compliance with Sunset Management Recommendations – Medical Grievances – Section 15

This section requires TDCJ to implement Sunset's Management recommendations. Relative to offender health care, TDCJ and the university providers were required to provide more useful information in response to offender grievances.

- Responses have been modified to include more detailed explanations of the major findings, an explanation for the dismissal of a grievance and description of any corrective action.
- Also, the Health Services Administrator/Unit Practice Manager now signs the response to a Step 1 medical grievance instead of the warden or assistant warden.
- TDCJ Office of Professional Standards staff completed training on the new grievance processes with UTMB and Texas Tech during August and September 2007.

Early Release From Supervision - Section 41

This section requires TDCJ to develop a process for allowing certain low risk releasees to serve the remainder of their sentence without supervision and without being required to report.

- The criteria for Early Release from Supervision have been identified. Examples of eligibility criteria include:
 - Having been under supervision for one-half of total parole supervision term.
 - No convictions for 3g or sex offenses.
- The existing Criteria for governing eligibility for Annual and Quarterly Reporting Status have been revised to facilitate movement of offenders towards Early Release from Supervision.
- A written policy governing Quarterly, Annual and Early Release from Supervision has been approved.
- The bill requires caseloads be reviewed annually to identify potential candidates for release from supervision, with the first review to be completed by September 1, 2008. The initial reviews have been completed, with 724 offenders approved for early release. Reviews for placement on quarterly and annual supervision, as well as for release from supervision, will take place during fiscal year 2009 and thereafter.

Salary Career Ladder for Parole Officers – Section 37

This section required TDCJ to adopt a career ladder for parole officers which is based on the officer's classification and years of service with the department.

- The Parole Officer Career Ladder policy was revised effective August 01, 2007.
- 1491 Parole Officers were converted on August 1, 2007.

Note other parole officers will benefit at a later date due to disciplinary status, not meeting standards

on their performance evaluation or Leave Without Pay Status.

*UPDATE ON FY 2008-09 TREATMENT DIVERSION INITIATIVES, AS OF
AUGUST 31, 2008*

- A key focus of the 80th Legislative Session was the funding for the state's criminal justice system, as outlined below, to enhance treatment programs and manage the projected offender population growth over the next several years. The Legislature directed additional appropriations totaling over \$227 million for the 2008-09 biennium toward alternatives to constructing additional prison capacity.

<i>GENERAL APPROPRIATIONS ACT</i>			<i>FY08</i>	<i>FY09</i>
Probation Residential and Treatment Beds	800 Beds	\$32.3	\$14.3	\$18.0
Probation Outpatient Sub Abuse Treatment		\$10.0	\$5.0	\$5.0
Medically Targeted Substance Abuse Treatment		\$2.0	\$1.0	\$1.0
Mental Health - Pre-Trial and Jail Diversions		\$10.0	\$5.0	\$5.0
Probation Intermediate Sanction Facility (ISF) Beds	700 Beds	\$17.1	\$5.0	\$12.1
Parole ISF Beds	700 Beds	\$11.7	\$3.4	\$8.3
In-Prison Therapeutic Community (IPTC) Treatment Slots	1,000 Slots	\$21.7	\$9.7	\$12.0
Substance Abuse Felony Punishment (SAFP) Treatment Beds	1,500 Beds	\$63.1	\$23.1	\$40.0
Driving While Intoxicated (DWI) Treatment	500 Beds	\$22.2	\$8.9	\$13.3
Marlin VA Hospital - TDCJ / CMHC	200 Beds	\$10.3	\$0.0	\$10.3
Parole Halfway House Beds	300 Beds	\$5.6	\$2.1	\$3.5
Conversion of TYC Facilities (Marlin and San Saba)	1,200 Beds	\$15.9	\$3.0	\$12.9
State Jail Substance Abuse Program	1,200 Slots	\$5.8	\$2.9	\$2.9
			\$83.4	\$144.3
			\$227.7	

- These targeted FY 2008-09 appropriations total approximately **5,900** additional beds and an additional **2,200** substance abuse treatment slots to the existing institutional capacity.
- **Completed and/or currently being phased in:**
 - Probation funding was distributed to the local CSCDs in October 2007 for the additional treatment beds and outpatient substance abuse. (About 650 of the additional probation beds are currently operational.)
 - The 1,000-slot expansion to the IPTC program started in October 2007 and is fully operational.
 - The 500-bed DWI Treatment facility was under contract in March 2008 and is fully operational.
 - 200 additional Halfway House beds were operational in September 2007, with the remaining 100 beds going on-line in FY 2009.

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- The State Jail Substance Abuse Program (1,200 treatment slots) began treating offenders in February 2008.

- **Contracting process partially complete, but still underway:**

- Of the additional 1,400 probation and parole ISF beds, 224 are under contract and completely phased in. We were able to increase current contracts by 49 beds. (Total Beds: 273)
- Of the additional 1,500 SAFP beds, 588 beds are under contract and completely phased in. We were able to increase current contracts by 88 beds. (Total Beds: 676)
- The remaining SAFP and ISF beds were issued on a second Request for Proposal (RFP). Proposals for beds currently available have been received and are being evaluated and negotiated. For those beds that require construction, proposals are due back November 14, 2008.

Transitional Treatment Centers (TTCs): Several of the programs identified above include an aftercare component involving TTC placements. Through negotiations with existing vendors the Department has obtained additional TTC beds. In April the Department issued another RFP, which included longer contract terms, reduced insurance requirements, and other modifications intended to encourage vendor interest.

Additionally, TDCJ and DSHS coordinated a plan to allow current contractors to reduce the square footage required per client. Current providers were notified that they may request a waiver from DSHS. The new RFP was modified to inform potential providers of the ability to request a waiver. As of August 2008, current contracts have been increased by 226 beds and contracts for an additional 44 beds are being finalized.

The Department, in cooperation with CSCDs and vendors, is also exploring other options related to TTC placements. These options include a proposal to provide an intensive outpatient treatment model in lieu of residential placement. The outpatient option would provide a level of treatment equal to the current TTC model, absent the requirement that the offender reside at the facility (if a suitable alternative exists). TDCJ is currently reviewing proposals to pilot this model in Fort Bend (17 offenders participating) and Dallas (planning stages) CSCDs. Additionally, the Parole Division is piloting a residential alternative model in Bexar, Burnet, Harris, Travis, and Williamson counties (10 offenders participating and 10 offenders pending release).

- **Total Number of Contracted TTC Beds**

- ★ As of May 2007 1,474
- ★ As of August 2007 1,525
- ★ As of April 2008 1,599
- ★ As of August 2008 1,825 (Excludes 44 beds of contracts being finalized)

TYC

BILLS AFFECTING TYC FROM THE 80TH LEGISLATIVE SESSION

HB 280 (Rep. Jerry Madden)

Amends Section 2306.5621(a)(6) Government Code to make juvenile correctional officers employed by the Texas Youth Commission eligible for the firefighter and law enforcement or security officer home loan program.

- Juvenile correctional officers were informed in July 2007 that they are eligible to participate in the “Homes for Heroes” program as a result of HB 280. Information about participating lenders was distributed to all JCOs. In December 2007, TYC employees working in an authorized hazardous duty pay position were informed that they are also eligible for this home loan program.

HB 914 (Rep. Jerry Madden)

Establishes Office of Inspector General (OIG) within TYC. Authorizes the OIG to employ and commission TCLEOSE certified peace officers to serve as inspectors general to investigate fraud committed by TYC employees, including contracted parole officers, and crimes committed in TYC-operated facilities or in contracted residential facilities.

- The Office of Inspector General (OIG) was officially created by Senate Bill 103, and House Bill 914, as an independent law enforcement division of the Texas Youth Commission (TYC). OIG was established for the purpose of investigating fair and impartial investigations with a goal of successful conclusion (exonerated/conviction): (1) Crimes and administrative violations committed by commission employees, including parole officers employed by or under contract with the commission; (2) Crimes and administrative violations committed at a facility operated by the commission or at a residential facility operated by another entity under contract with the commission. OIG will be responsive to the needs of the Commissioner, TYC, governmental agencies, and the people of Texas by demonstrating a willingness and ability to impartially investigate criminal complaints and administrative violations while protecting the rights of all persons involved.
- OIG implemented the Incident Reporting Center (IRC), which operates the SB 103, mandated hotline. The hotline was established on March 6, 2007, as part of the task force initiative as a means for youth, family, staff, and other to report violations and crimes that occur in relation to TYC. The IRC hotline is answered 24 hours a day, 7 days a week. Once a call is received, a determination is made in reference to it being criminal, administrative, youth rights issues or youth care issues. The complaint is then forwarded to the appropriate division for review and/or investigation.

HB 921 (Rep. Dianne Delisi)

Requires the Department of Information Resources (DIR) and the Texas Health Policy Council to establish standards for secure electronic sharing of information among state agencies. Provides

initial focus of the interagency information sharing system on the continuity of care for youth being admitted to or discharged from TYC facilities.

- The Texas Health Care Policy Council has developed interagency data sharing standards for agencies providing health and social services. The statement regarding these standards has been posted to the Texas Department of Information Resources website and can be found on the following web page: <http://www.dir.state.tx.us/pubs/statehealth/standards.htm>.
- The interagency contracts for development of data exchange systems and interfaces between HHSC and TYC, and DSHS and TYC have been drafted, with the exception of appropriate fund disbursement statements based on the FY08 2 million dollars and FY09 2 million dollars earmarked for EMR development. The Chief Financial Officer for TYC has requested that the FY08 \$2 million be rolled over into FY09. As of today, the status of this rollover has been requested, but is unknown.
- System development for the data exchanges and interfaces has been discussed in initial stages, is waiting for the fund disbursements discussed above, and has now been postponed due to UTMB damage sustained during hurricane Ike.

HB 1111 (Rep. Sylvester Turner)

Amends Sec. 61.0763, Human Resources Code, to require TYC to maintain records regarding research programs or studies to include the number of youth participating, the type of research or study in which each youth is participating, the name of the principal investigator conducting the research or study, and the entity sponsoring the research or study. TYC would submit a public report of this information to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and members of the legislature periodically.

- Agency policy (GAP 85.53) requires (as it did prior to HB 1111) that all research be approved by the Research Director. The Research Agreement was updated post HB 1111 to include a confidentiality clause approved by our Legal Department that meets national and state criteria regarding confidentiality and research on human subjects. We are gathering all the reports that have been submitted and will have hard copies of the policy and a blank research agreement available in case they are requested.

HB 1960 (Rep. Solomon Ortiz, Jr.)

Includes the youth and youth's parents or guardian to the list of persons who can inspect or copy a youth's files. In cases where there are multiple juvenile offenders, the youth or youth's parent or guardian is authorized to have access to the record or file only after the names of other juvenile offenders have been redacted.

- HB 1960 formalized TYC's practice of allowing youth and youth's parents/guardians to inspect or copy a youth's files, given redactions required by other laws. It has been fully implemented.

HB 2034 (Rep. Kirk England)

Relates to the regulation of sex offender treatment providers. This bill clarifies and tightens language from HB 2036 from the 79th Legislative Session, which created a protected practice for sex offender treatment providers. Only licensed persons can provide sex offender treatment.

- By expanding the definition of “Sex Offender Treatment Provider” to include a larger number of individuals eligible to seek licensure, HB 2034 has helped the Texas Youth Commission to meet the requirement that only staff approved by the Texas Council on Sex Offender Treatment (CSOT) provide sex offender treatment to juveniles committed with sexual behavior problems. There are currently 417 Licensed Sex Offender Treatment Providers, only 77 with a specialty with Juveniles and 89 LSOTP Supervisors in Texas according to recent listings on the CSOT website. Due to these small numbers and the difficulty we have had in the past in recruiting fully licensed staff, the Specialized Treatment Department has initiated a joint endeavor with Rebecca Hart, TYC Recruitment Supervisor, to develop a list of universities and colleges that provide programs that offer a curriculum which enables graduates to apply for licensure as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Therapist (LMFT) or Licensed Clinical Social Worker in the state of Texas. We intend to partner with these programs to help the graduates complete 3000 hours of supervised field experience with a temporary license in our facilities. By making these connections we hope to be able to better recruit, train and retain staff that is fully licensed by the CSOT.
- We anticipate needing 26 LSOTP’s by the October 22, 2010 deadline identified in the CSOT Administrative Code, Chapter 810.3 section (c) to provide the current dorm based specialized treatment services. TYC currently has 6 LSO’TP’s with two of them having the Supervisor certification. We currently have 10 staff working towards their licensure. One is already to point of receiving supervision through the process we have established. The Specialized Treatment Department has developed a CSOT approved curriculum for the 40 hours of required continuing education on the treatment of sex offenders. We have provided the training to the psychology staff at our Ron Jackson facility for them to provide appropriate treatment to our female population and are setting dates in October, 2008 for training additional staff in our specialized treatment programs at Giddings and McLennan. We anticipate recruiting at least 10 students from universities by May 2009 by offering competitive salaries, exceptional benefits, training and supervision.
- The bill also clarifies that a licensed staff that is providing adjunct treatment or medication to one of our youth is not subject to the requirement for licensure. This will allow our staff to provide adjunct treatment such as psychological services for other issues, chemical dependency treatment, etc.

HB 2884 (Rep. Harold Dutton)

This bill impacts TYC operations by eliminating the 36 months age limit on infants in our WINGS program, limiting the amount of time a child can be in the program to no more than six months.

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- The original Baby Bill put a limit at 36 month on any child of a TYC youth who could be placed at WINGS. This limit did eliminate some youth who had somewhat older toddlers, but, who could benefit from the parenting program at WINGS. HB 2884 did fully eliminate this restriction and it has opened referrals more widely to youth who might have a toddler but is in need of the program. This was seen as a major improvement and allowed all young mother's the same chance to get parenting services at WINGS.
 - HB 2884 does provide that TYC can now provide IL support to TYC mother's and their child(ren) in all forms, such as the Southwest Key IL Apartments or with the traditional IL rent and food support. The bill however, does provide for a strict 6 month limit on TYC IL support. This is typically the length of time most youth are supported in IL so it does not make a significant difference in TYC support, but, it does add a higher degree of management since there is a cut off at 6 months.

HB 3295 (Rep. Joe Driver)

Relates to the DNA samples taken from certain offenders. This bill requires TYC to notify the director that a youth who is held in a facility operated by or under contract with TYC as a felon should be released from custody not earlier than the 120th day before the individual's release.

- Changed the notification timeframe from 10 days to 120 days. DPS informed TYC February 2008 that their position is that the requirement is an unintended consequence of the consolidation of some statutory language. TYC received another letter requesting TYC not send the notification. (Letter available). **Therefore, notification of release to DPS is not sent.**

HB 3309 (Rep. Valinda Bolton)

Adds advocacy and support groups for victims of sexual assault to the list of individuals, groups, and organizations that TYC shall allow to provide services in its facilities. This bill requires TYC to adopt certain procedures and standards to ensure confidential correspondence between children confined in TYC and advocacy and support groups.

- Staff worked with staff members from Rep. Bolton's office and Texas Association Against Sexual Assault and other advocacy groups to formalize this policy. The proposed policy (GAP 81.83) was developed and posted in the Texas Register. Comments have been received and reviewed. The agency is now operationalizing the process (application process, forms, badges, etc.) to assure seamless implementation of the policy after adoption. Expected completion: November 1, 2008.

SB 103 (Sen. Juan Hinojosa)

This legislation provides for major reforms for the agency, requiring TYC to:

- Discharge all 19 year olds, as soon as practicable. 19 year old sentenced offenders will be discharged to TDCJ parole or institutional division
- Discharge non-sentenced offenders 19 years or over. Most of these youth will be discharged to their homes. For those youth who are 19 but who have been abandoned or have no home to go home to, we are working hard to find other options, including shelters, friends, extended family, etc.,

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- Become an at-will agency. That means all employment is on an “at-will” basis, meaning that either the employee or the agency can terminate the employment relationship at any time, for any or no reason (other than an illegal reason) without contractual liability
 - Provide at least 300 hours of training, including on-the-job training before juvenile correctional officers begin the independent oversight of the youth
 - Maintain a ratio of not less than one juvenile correctional officer performing direct supervisory duties for every 12 persons committed to the facility
 - Rotate the assignment of each JCO at an interval determined by TYC
 - Allow certain advocacy and support groups on campus to provide on-site information, support, and other services to the youth
 - Establish a permanent, toll-free number for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in the custody of the commission
 - Consider the proximity of the residence of the child’s family in determining the appropriate commission facility in which to place the child
 - Establish a minimum length of stay for each child committed to the commission without a determinate sentence
 - Adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact of children in the custody of the commission
 - Integrate the provision of medical care and behavioral health care in a comprehensive delivery system
 - Develop a parent’s bill of rights for distribution to the parent or guardian of a child who is committed to TYC
 - Develop an extensive reentry and reintegration plan for each child
 - Establish a panel whose function is to review and determine whether the child who has completed his MLOS should be discharged, released under supervision, or remain in TYC custody.

SB 230 (Sen. Chris Harris)

This bill requires a juvenile probation or parole officer to notify the superintendent or his designee when a student transfers to a school other than the one he was enrolled in at the time of his arrest, referral to juvenile court, conviction, or adjudication. The superintendent of a public school or principal would promptly notify teachers and support staff who have regular contact with the student.

- Parole Officers notify school superintendents as required by statute. Our procedures for providing notification are found in the Texas Youth Commission’s General Administrative Policy Manual as GAP.81.36. Parole officer compliance with the procedures for public school notification are monitored on a monthly basis by their immediate supervisor as a Quality Assurance function.
- Education liaisons receive a copy of the EDU 270 from the parole officers whose youth are supposed to be in school. The education liaisons use the SAS 124 Exceptions Report that shows which youth are not in school who are supposed to be. The education liaisons contact the parole officers to confirm that the EDU-270’s are sent. The SAS 041 report is a Released to Parole report used by education liaisons to know who has moved to parole to

who to check on to confirm school attendance. Education Liaisons contact parole officers regularly to confirm through email, telephone and in person.

SB 737 (Sen. Thomas Williams)

Removes the \$300 a month cap on hazardous duty pay for employees who have served the State of Texas for more than 30 years, allowing them \$10 a month per year served.

- The monthly cap for hazardous duty pay was removed in the Uniform Statewide Payroll System effective September 1, 2007.

COUNCIL ON SEX OFFENDER TREATMENT (CSOT)
(TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS))

Progress Report Regarding the 80th Legislative Session

- HB 8 (Riddle/Duell) Effective September 1, 2007

SECTION 1.12. Health and Safety Code, Section 841.082, is amended by adding Subsection (b) to read as follows:

- (b) A tracking service to which a person is required to submit under Subsection (a)(5) must:
 - (1) track the person's location in real time;
 - (2) be able to provide a real-time report of the person's location to the case manager at the case manager's request; and
 - (3) periodically provide a cumulative report of the person's location to the case manager.

Progress: complete

All requirements of this bill regarding global positioning satellite (GPS) tracking service have been utilized since 2000. The GPS tracking provides real time tracking, real time reports on the sexually violent predator's (SVP) location, and cumulative reports of the SVP's location.

SECTION 1.13. Health and Safety Code, Subchapter E, Chapter 841, is amended by adding Section 841.084 to read as follows:

Sec. 841.084. COST OF TRACKING SERVICE. Notwithstanding Section 841.146(c), a civilly committed person who is not indigent is responsible for the cost of the tracking service required by Section 841.082 and monthly shall pay to the council the amount that the council determines will be necessary to defray the cost of operating the service with respect to the person during the subsequent month. The council immediately shall transfer the money to the appropriate service provider.

Progress: Implementation date November 1, 2008

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- **HB 2034** (England/Shapiro) Effective immediately upon two-thirds vote of the House and Senate or September 1, 2007.

SECTION 1. Occupations Code, Subchapter A, Section 110.001, Definitions, was amended by amending Subdivisions (6) Sex Offender and (7) Sex offender treatment provider and adding Subdivision (8) Sexually motivated conduct.

SECTION 2. Occupations Code, Subchapter A, Chapter 110, was amended by adding Section 110.002 Application of the Chapter related to adjunct treatment.

SECTION 3. Occupations Code, Subchapter A, Section 110.158, was amended to address administrative sanction against the provider.

SECTION 4. Occupations Code, Section 110.301, was amended by amending Subsection (a) deleting rehabilitation service and adding Subsection (c) relating physicians prescribing medicine.

Progress: complete

All requirements of this bill regarding these modifications to the definitions were implemented effective October 22, 2006. See Texas Administrative Code, Chapter 810.

- **SB 103** (Hinojosa/Madden) Relating to the Texas Youth Commission (TYC); adds that TYC may not exempt any employee of TYC from licensing requirements imposed under Occupations Code, Chapter 110 for any reason. Effective immediately upon two-thirds vote of the House and Senate or September 1, 2007.

Progress: complete

All requirements of this bill regarding licensing requirements were implemented effective October 22, 2006. See Texas Administrative Code, Chapter 810.

- **SB 909** (Whitmire/Madden) Relating to Texas Department of Criminal Justice (TDCJ); TDCJ may not exempt any employee from CSOT licensing requirements under Occupations Code, Chapter 110. Effective immediately upon two-thirds vote of the House and Senate or September 1, 2007.

Progress: complete

All requirements of this bill regarding licensing requirements were implemented effective October 22, 2006. See Texas Administrative Code, Chapter 810.

*CSOT Recommendations for the 81st Legislative Session
Regarding Health & Safety Code Chapter 841 (Civil Commitment)*

- **Health and Safety Code, Section 841.085, Criminal Penalty.** Amend by adding (d) to read as follows:
“(d) To secure a defendant's attendance at trial a person who is arrested for a violation of a requirement imposed under Section 841.082, a magistrate shall impose a condition of bond set not less than \$200,000 to ensure the safety of the victim(s) of the alleged offense or the safety of the community.”

Justification: SVPs are the most dangerous population of sex offenders, yet some SVPs have been released on \$750 dollar personal recognizance (PR) bonds. The bond amounts for SVPs vary across the State. Harris County bonds can range from \$10,000 PR bond to no bond. Some parole and probation warrants regarding technical and criminal violations are non-bondable. The halfway houses in which SVPs reside are not secure facilities. When an SVP is in violation and knows the consequence of a third degree felony or habitual sentencing, he/she is considered a “flight” risk, which jeopardizes public safety.

If changes are made in Health and Safety Code 841.085 regarding bail, amendment would also need to be made to the Texas Constitution, Article 1, BILL OF RIGHTS, to avoid conflicting information.

Section 11 – BAIL: “All prisoners shall be bailable by sufficient sureties unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law”.

Section 11a - MULTIPLE CONVICTIONS; DENIAL OF BAIL

“(a) Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefore, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, or (4) accused of a violent or sexual offense committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above, of the offense committed while on bail in (2) above, or of the offense in (4) above committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused;

- **Health and Safety Code, Section 841.085, Criminal Penalty.** Amend by adding (e) to read as follows: “(e) if the person violates a requirement imposed under Section 841.082, the detaining agency or county jail shall notify the DSHS/CSOT case manager/program specialist assigned to the SVP twenty-four hours (24) hours prior to release of the SVP and/or upon immediate notification of

the impending release of the SVP. The case manager/program specialist shall provide the detaining agency or county jail with the appropriate contact information for notification.”

Justification: County jails are not required to notify the program specialists who supervise SVPs regarding their release. Most correctional/detention institutions or jails will check their databases and the databases of other agencies for law enforcement detainers before releasing a resident in their custody.

Currently, there are two types of detainers: a civil detainer warrant (for landlord evictions) and a criminal detainer warrant. DSHS/CSOT does not have the authority to issue a civil detainer to a law enforcement or detention agency. The program specialists have been diligent with the detaining agency in providing their contact information, but there have been several instances in which SVPs have been released without program specialist or CSOT knowledge; the program specialist or CSOT were notified when the SVP arrived back at the halfway house hours after release.

- **Health and Safety Code, Section 841.085, Criminal Penalty.** Amend to read as follows: “(a) person commits an offense if the person violates a requirement imposed under Section 841.082. (b) Notwithstanding Section 6.02(b), Penal Code, proof of a culpable mental state is not required for a conviction of an offense under this Section”. An offense under this section is a felony of the third degree. (Filed as HB 3306 by England, 80th Legislative Session)

Justification: This would be a strict liability offense similar to the offense of Driving While Intoxicated, which is viewed as a public safety issue. This would allow law enforcement and district attorneys to expedite charges. Currently, the State must prove culpable mental state that the SVP knowingly, intentionally, and recklessly violated the order of commitment. It is very difficult to prove the SVP knowingly, intentionally, and recklessly failed to comply with the judicial order (i.e., failed to attend, participate in, and comply with a specific course of treatment or obstructed or tampered with the GPS tracking). When an SVP is in violation and knows the consequence of a third degree felony or habitual sentencing, he/she is considered a “flight” risk. The CSOT must be able to execute a warrant as soon as possible to ensure public safety.

- **Health and Safety Code, Section 841.083(a), Treatment; Supervision.** Amend to read as follows: “the council shall approve and contract for the provision of [a] treatment [plan] for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in a reasonable amount not to exceed [\$6,000] \$20,000 for providing the required treatment.” (Filed as HB 3306 by England, 80th Legislative Session)

Justification: Sex offender treatment must be consistent, intense, and long-term. It is beneficial to DSHS/CSOT to pay a reasonable fee for licensed sex offender treatment provider services to ensure that there are sufficient providers in light of the program’s continuing expansion. Ensuring that SVPs are provided the specific course of treatment by licensed providers is essential in protecting public safety. Modifying this section will allow providers to include polygraph and plethysmograph services in treatment billing statements.

Recommendations for the 81st Legislative Session Regarding Licensing of Sex Offender
Treatment Providers

- **Texas Health and Safety Code, Chapter 12, Powers and Duties of Texas Department of Health §12.0111. LICENSING FEES.** Amend by adding (e). The complete language of §12.0111 with the new (e) follows: “(a) This section applies in relation to each licensing program administered by the department or administered by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department. In this section and Section 12.0112, “license” includes a permit, certificate, or registration. (b) Notwithstanding other law, the department shall charge a fee for issuing or renewing a license that is in an amount designed to allow the department to recover from its license holders all of the department’s direct and indirect costs in administering and enforcing the applicable licensing program. (c) Notwithstanding other law, each regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department and that issues licenses shall charge a fee for issuing or renewing a license that is in an amount designed to allow the department and the regulatory board or agency to recover from the license holders all of the direct and indirect costs to the department and to the regulatory board or agency in administering and enforcing the applicable licensing program. (d) This section does not apply to:
 - (1) a person regulated under Chapter 773; or
 - (2) a license or registration under Chapter 401(e) Notwithstanding other law, the Council on Sex Offender Treatment that is under the jurisdiction of the department or administratively attached to the department and that issues a license shall charge a fee for issuing or renewing a license that is in an amount designed to allow the department and the regulatory board or agency to recover from the license holders 60% of the direct and indirect costs to the department and to the regulatory board or agency in administering and enforcing the applicable licensing program.”

Added by Acts 2003, 78th Leg., ch. 198, § 2.42(a), eff. Sept. 1, 2003.
Amended by: Acts 2007, 80th Leg., R.S., Ch. 1061, § 1, eff. September 1, 2007.

Justification:

- As of 2003, the CSOT was subject to the Texas Health and Safety Code, Chapter 12, Powers and Duties of Texas Department of Health §12.0111. Due to limited numbers of licensees, the CSOT has not recovered 100% of its direct and indirect costs. Currently, there are only 451 licensed sex offender treatment providers in Texas in 72 counties. There is concern that a fee increase substantial enough to recover 100% of costs of the program would jeopardize the provider base and public safety. This concern is based on:
 - A possible decrease in the already small number of treatment providers. In a 2003 DSHS fee study of treatment providers, 42% of providers responded to the survey, in which 32% indicated that they **would not** renew their licensed sex offender treatment provider license if the fee was increased by \$50 or \$100 dollars. This would have resulted in a decrease of 144 providers.

○ TDCJ releases approximately 200 sex offenders per month, and in 2003 there were approximately 13,600 sex offenders receiving direct community supervision and treatment. Seven hundred (5%) sex offenders reside in 99 rural counties (data provided by Community Justice Assistance Division). It is critical that Texas maintain sufficient numbers of licensed sex offender treatment providers to meet the needs of sex offenders in the community.

○ Currently licensed sex offender treatment providers pay \$200 for a biennial license renewal. Each licensed sex offender treatment provider must be dually-licensed; he/she must first be licensed as a mental health provider, such as a psychologist, licensed professional counselor, social worker, or marriage and family therapist. The licensee must pay a primary license renewal fee in addition to the \$200 licensed sex offender treatment provider renewal fee. To comply with Health and Safety Code §12.0111, the licensed sex offender treatment provider renewal fee would have to be almost doubled, from \$200 to \$350, an amount that may be perceived as intolerable for some licensed sex offender treatment providers.

- With fewer licensed treatment providers, public safety could be compromised; studies have shown that sex offenders receiving treatment recidivate at a lower rate than sex offenders not receiving treatment.

○ Child molesters who participated in a cognitive behavioral treatment program had fewer sexual re-arrests than the sex offenders who did not receive any treatment (13.2% vs. 57.1%, respectively). Both groups were followed for 11 years. The recidivism data was obtained by official sources and self-reports. Also, exhibitionists receiving treatment were reconvicted or charged with a sexual offense less than the untreated exhibitionists (23.6% v. 57.1%, respectively). (Lane Council, 2003)

○ The overall effect of treatment shows reductions in both sexual recidivism (10% of the treated subjects to 17% of untreated) and general recidivism (32% for treated subjects to 51% of untreated subjects). (Hanson, 2000)

- Additional expenses related to the cost of victimization due to sexual assault or re-offense could be realized.

○ Prentky and Burgess (1990) estimated the total expense per sexual offense to be \$183,333.00 dollars.

○ A Lane Council study found the cost incurred by victims of rape and sexual assault was \$109,778 and sexual abuse of a child was \$126,024. Costs included productivity, medical care, mental health care, police services, social services, tangible loss, and loss of quality of life. These estimates demonstrate the devastating impact of sex crimes on victims.

It is a challenge to recruit sex offender treatment providers due to the required specialized qualifications and training and uniqueness of the treatment process; recruitment from the mental health professions to this field will be an ongoing challenge. Sex offender treatment is different from traditional psychotherapy in that it is court or parole board-mandated, highly structured, victim-centered, and imposes values and limits. Sex offender treatment providers must continually

be aware of the risk of colluding with and/or contributing to the offender's denial. Also in sex offender treatment, confidentiality may not be maintained based on the need to ensure public safety and to discourage secrecy, which is a major premise of sexual offending.

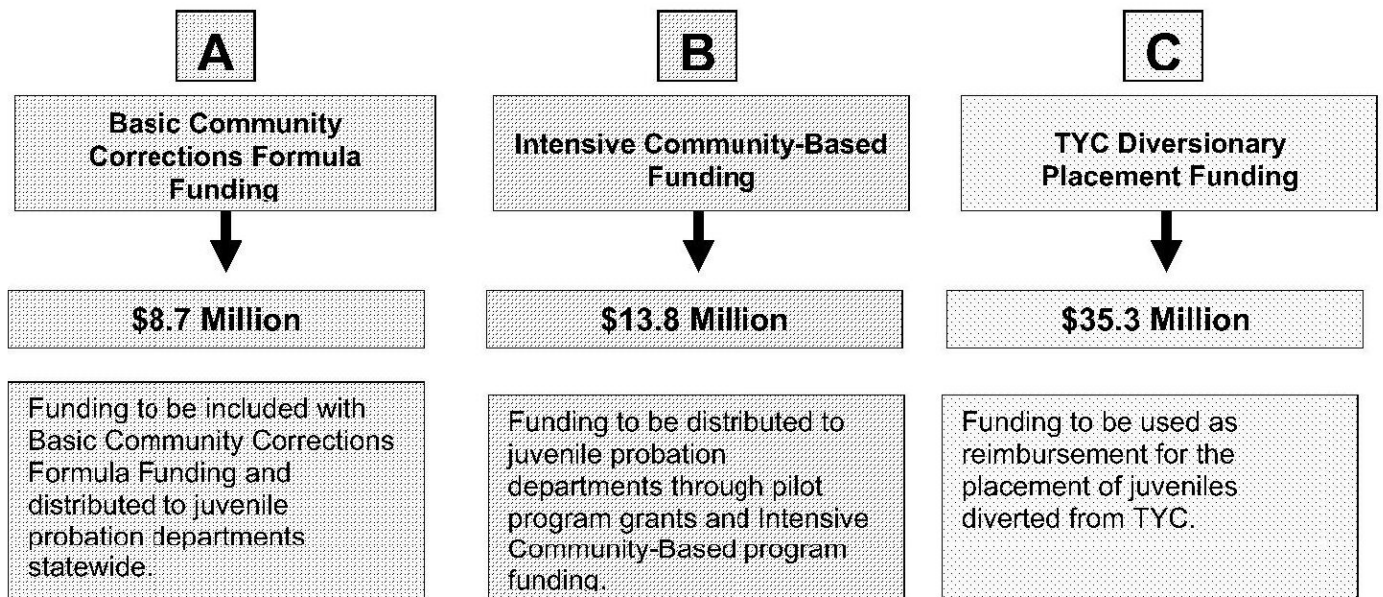
PRIVATE SECTOR PRISON INDUSTRIES OVERSIGHT AUTHORITY

During the 80th Legislative session the only legislative changes that impacted the Private Sector Prison Industries Oversight Authority were two items in Senate Bill 909. The changes called for an increasing the number of offenders that can participate under service contracts and the other mandating that those offenders receive at least minimum wage. Neither one of these required any action since we were under the maximum number of offenders and they were already receiving minimum wage.

The House Committee on Corrections does not have direct jurisdiction over the Texas Juvenile Probation Commission but TJPC did respond to the Committee's request.

TJPC

*Texas Juvenile Probation Commission
New Community Corrections Funding Resulting From SB 103
and Other System Changes
2008-2009 Biennium*



Community Corrections Funding Formula	\$4,350,000	\$4,350,000
Intensive Community Based	\$6,918,335	\$6,918,335
Total A+B	\$11,268,335	\$11,268,335
Placement C	\$15,646,500	\$19,710,000

Intensive Community-Based Funding - \$13.8 (B)

TJPC anticipated that approximately \$2.0 million of these funds were unspent during the FY 2008 the primary reason was due to slow start up of new programs by counties. TJPC anticipates that all of these funds appropriated for the FY2009 will be spent.

TYC Diversionary Placement Funding - \$35.3 (C)

Juvenile probation departments are eligible to receive reimbursement for placements for a period not to exceed 180 calendar days at a rate not to exceed \$90 per juvenile per day.

- The allocation for TYC Diversionary Placement funding to the five largest juvenile probation departments is based on each department's proportion of the total referrals for misdemeanor offenses, probation violations and felony offenses.
- The allocation of TYC Diversionary Placement Funding is based on each region's proportion of the total referrals for misdemeanor offenses, probation violations and felony offenses.

Other Legislation Passed Affecting Juvenile Probation

HB 425. Requires the Commissioner of Education to adopt rules in coordination with TJPC and TYC regarding the instructional requirements for education services in pre- and post-adjudication facilities. The three agencies have drafted a proposed set of rules for adoption by the commissioner of Education, these rules have not yet been finalized.

RECOMMENDATIONS

Alter the current rider in the TJPC budget to allow for funds appropriated for the placement of juveniles in a residential facility to be tiered so facilities providing youth with a higher, intensive or specialized level of services may be appropriately compensated.

Residential Facilities Rider Language

Juvenile Boards may use funds appropriated in Goal A, Basic Probation and Goal B, Community Corrections, to lease, contract for, or reserve bed space with public and private residential facilities for the purpose of diverting juveniles from commitment to the Youth Commission providing rehabilitation and treatment to juvenile offenders. Funds used for placements may not exceed the Commission's Tier Level of Care Rates.

Proposed Tier Levels:

General Correctional - \$95.00 Specialized - \$127.00 Intensive - \$225.00

Other Recommendations:

1. Texas Juvenile Case Management System (JCMS)

JCMS is a comprehensive, state-of-the-art, web-based juvenile justice information and case management system that will provide for the common data collection, reporting and management needs of Texas juvenile probation departments. JMCS will provide statewide data sharing between the 166 local juvenile probation departments. The system will consist of a core case management component (intake, referral, case management, etc.) and additional enhancement features such as detention, institution management, law enforcement

and juvenile justice alternative education programs. Furthermore, JCMS is being architected to facilitate sharing of data between juvenile justice agencies both across and within jurisdictions to allow for better focused programs and services to be offered to juvenile offenders. Thorough and complete information regarding a juvenile offender contributes to more effective decision-making and utilization of limited state and county programmatic resources. TJPC is requesting \$4.5 million during the next biennium to support this system.

2. Budget Restructure

Since 1995, the legislative appropriations to TJPC have been targeted to specific areas and specific programs or services in juvenile probation departments. For example, current funding streams target residential placement, front-end programs and services, and special services such as Intensive Services Probation (ISP). TJPC currently administers up to 19 different contracts, based upon these targeted funding streams, with each of the 166 juvenile probation departments. Varied funding streams fragment, limit and restrict the local juvenile probation departments' ability to respond to the specific needs of youth. For example, if all the funding for non-residential community-based programs and services has been exhausted, but funding remains for residential placements, it is likely that a youth may be placed into a residential facility since there is funding for that service, regardless of whether placement is the best, or most appropriate disposition option for that particular juvenile. TJPC is requesting that specific, targeted funding streams be consolidated and streamlined to allow flexibility for local probation departments, thus allowing the departments to tailor the programs and services that are most appropriate to each juvenile offender's needs. Consolidated funding streams will help probation departments expend the limited state and local resources in a more efficient and effective manner. Outcome based performance measures will be implemented to ensure that consolidated funding streams are meeting desired goals.

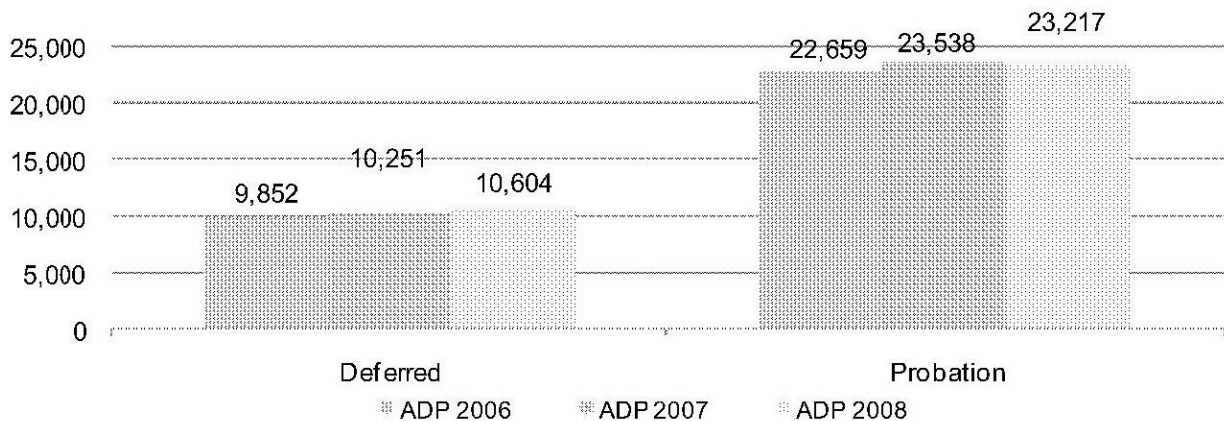
3. Mental Health Assessments and Services (Grants)

Juveniles in secure pre- and post-adjudication facilities pose a greater challenge to the system, as both TJPC standards and constitutional safeguards demand that juveniles with a potential mental health diagnosis receive mental health assessment and services. The agency is requesting funding to assist juvenile probation departments to provide mental health assessments and services to juveniles under their jurisdiction, with special focus on juveniles held in secure pre- and post-adjudication facilities. Three million each year would allow for the hiring of licensed mental health providers in each county operated secure facility. Five-hundred thousand is a one-time fee that provides for development of an automated in-depth screening/assessment instrument. The Commission is requesting \$6.5 for the 2010-11 biennium.

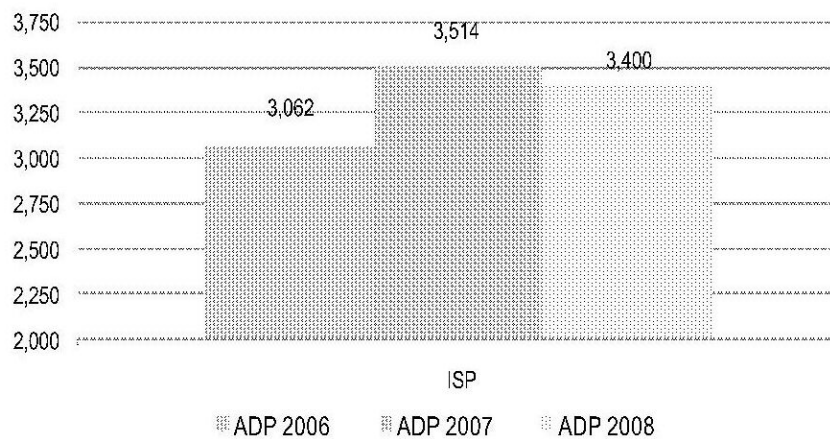
4. Increase in FTEs Resulting from Senate Bill 103 Mandates.

SB103 altered the requirement for TJPC to audit secure pre- and post-adjudication facilities from every other year to annually. There are approximately 85 secure pre- and post-adjudication facilities in the state. This change in statute has significantly impacted the auditing of other areas. TJPC has requested an increase of 5 staff in order to fulfill the agencies mission. - \$621,592.

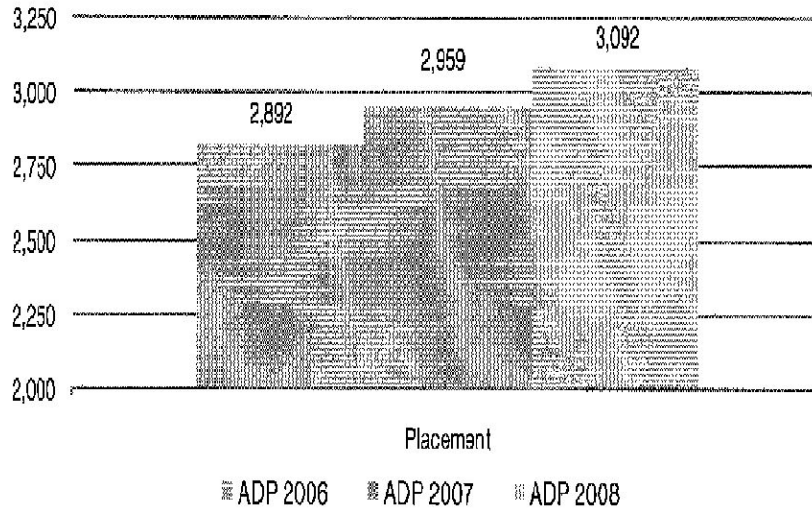
Comparison of Average Daily Population for Deferred Prosecution and Probation
FY 2006 – 2008 (FY 08 Based on data from 9/1/07-7/31/08)



The Average Daily Population for Juveniles on ISP
FY 2006 – 2008 (FY 08 Based on Data From 9/1/07-7/31/08)



Average Daily Population for Juveniles in Residential Placement
FY 2006-2008 (FY 08 Based on data from 9/1/07-7/31/08)



ENDNOTES

- ¹ Spriggs, Vicki. Written testimony. Texas House of Representatives, Committee on Corrections. Date: August 21, 2008.
- ² Wallace, Roxi. "Re: History of the Offender Information Management System Project," fax to author, May 6, 2008.
- ³ Jenkins, Stuart. "Re: Chairman Madden's Questions- SAO Audit of Selected Parole Functions," e-mail message to author, July 28, 2008.
- ⁴ Texas State Auditor's Office. An Audit of Selected Parole Functions at the Department of Criminal Justice and the Board of Pardons and Paroles. Report No.: 08-036. June 13, 2008.
- ⁵ Texas Department of Criminal Justice. Overview of Reentry Programs. August 2008.
- ⁶ TDCJ, TWC, TYC. Project RIO Strategic Plan. March 2008.
- ⁷ Livingston, Brad. Oral testimony. Texas House of Representatives, Committee on Corrections. Date: August 21, 2008.
- ⁸ TYC. FY2009 Population Capacity Plan. December 16, 2008.
- ⁹ TJPC. Overview of the Special Needs Diversionary Program for Mentally Ill Juvenile Offenders, FY 2007. 2008.
- ¹⁰ Collier, Bryan. Oral testimony. Texas House of Representatives, Committee on Corrections and Committee on Appropriations. May 29, 2008.
- ¹¹ Texas Governor's Criminal Justice Division. Drug Court Summary. April 30, 2008.
- ¹² Tex. Gov't Code §493.015 (b)
- ¹³ Tex. Gov't Code §493.015 (g)
- ¹⁴ Livingston, Brad. Written testimony. Texas House of Representatives, Committee on Corrections and Committee on County Affairs. February 1, 2008.
- ¹⁵ Livingston, Brad. Written testimony. Texas House of Representatives, Committee on Corrections and Committee on County Affairs. February 1, 2008.
- ¹⁶ County Jail Survey Report 2008. Legislative Department, Texas Association of Counties. May 20, 2008. http://www.county.org/resources/countydata/products/2008_CountyJailSurveyReport_Final.pdf
- ¹⁷ Major Cities Chiefs. M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies. June 2006. http://www.houston.tx.gov/police/pdfs/mcc_position.pdf
- ¹⁸ Tex. Criminal Procedure Code §16.22.
- ¹⁹ Nguyen, Tuan D., Ph.D. Highlights of Findings Related to Persons with Mental Illness Who Are Involved with the Adult Criminal Justice System in Harris County, Texas. May 28, 2008.